

PARTICIPANT GUIDE
1310 INVESTIGATIVE INTERVIEWING
TECHNIQUES



U.S. Department of Labor
Occupational Safety and Health Administration (OSHA)
OSHA Training Institute
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OSHA Training Institute Course #1310
Investigative Interviewing Techniques
 Course Chair: David Novak ~ March 3 - 5, 2020

Time	TAB	Title	Instructor(s)
Tuesday, March 3, 2020			
8:00 - 9:00	Tab 1	Introduction; Pre-Test	Ortiz/ Novak
9:15 - 10:00	Tab 2	Initiate the interview	Ortiz/ Novak
10:15 - 11:30	TLO1 WS 1	Initiate the interview (types and characteristics)	Novak/ Ortiz
11:30 - 12:30		LUNCH	
12:30 - 1:30	TLO1 WS 2	Initiate the interview (prioritize interviewees)	Ortiz/ Novak
1:45 - 2:45	Tab 3	Develop interview questions	Novak/ Ortiz
3:00 - 4:15	TLO 2 WS1	Develop interview questions (Types of questions)	Staff
Wednesday, March 4, 2020			
8:00 - 9:15	TLO 2 WS 1	Develop interview questions (Types of questions)	Staff
9:30 - 10:30	TLO 2 WS 1	Develop interview questions (Types of questions)	Staff
10:45 - 11:30	TLO 2 WS 1	Develop interview questions (Types of questions)	Staff
11:30 - 12:30		LUNCH	
12:30 - 1:30		Proxemics/Kinesics	Novak/ Ortiz
1:45 - 2:45	Tab 4	Apply interview techniques	Ortiz/ Novak
3:00 - 4:15	Tab 4	Apply interview techniques	Novak/ Ortiz
Thursday, March 5, 2020			
8:00 - 9:15	TLO 3 WS 2	Apply interview techniques (Welding Scenario)	Staff
9:30 - 10:30	TLO 3 WS 2	Apply interview techniques (Welding Scenario)	Staff
10:45 - 11:30	TLO 3 WS 2	Apply interview techniques (Welding Scenario)	Staff
11:30 - 12:30		LUNCH	
12:30 - 1:30	TLO 3 WS 2	Apply interview techniques (Welding Scenario)	Staff
1:45 - 2:45	TLO 3 WS 2	Apply interview techniques (Welding Scenario)	Staff
3:00 - 4:15		Course Final Self Assessment; Post Test; Evaluation/Closing	Novak/ Ortiz



U.S. Department of Labor
Occupational Safety and Health Administration
Directorate of Training and Education
OSHA Training Institute
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COURSE TITLE:	INVESTIGATIVE INTERVIEWING TECHNIQUES
COURSE NUMBER:	1310
CONTINUING EDUCATION UNITS (CEUs):	1.8
CONTACT HOURS:	18
SCHEDULE ID:	1480901
DURATION:	March 3-5, 2020
HOST / TRAINING LOCATION:	Maryland Occupational Safety and Health (MOSH) 10946 Golden West Drive, Suite 190 Hunt Valley, MD 21031
GENERAL INFORMATION:	410-527-2087
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<i>Course Chairperson</i>	David Novak, MS
<i>Instructional Staff</i>	David Novak, MS Raul Ortiz

Back on the Job...

My Top 3 action items are:

1.

2.

3.

I will be able to implement these action items back on the job if I:

Possible obstacles I might face in implementing my action items are:

I can overcome these obstacles by:

Course # _____

Course Name: _____

Name: _____'s

Training Action Plan

Your Action Plan is an important tool that will help you use what you've learned back on the job.

- Keep it open and nearby.
- Take action-oriented notes about what you're learning and what you'll apply back at work.

When you return to work, review this action plan with your supervisor and discuss what, when, and how you will begin to implement what you learned in this course.

New Knowledge/Skills Learned in this Course

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Ideas on How to Make the Learning Work at Work

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is a vertical margin line on the left side, creating a narrow left margin. The paper appears to be from a notebook or a standard ruled sheet of paper.

July 2014

MEMORANDUM FOR: STUDENTS & VISITORS OF DTE/OTI

SUBJECT: RULES & REGULATIONS

1. **EMERGENCY PLAN:** ALL STUDENTS & VISITORS are required to sign in through the guard station or classroom on a daily basis. These records are used in the event of an emergency to verify that all personnel have been accounted for.
 - a. **FIRE EVACUATION** = Exit the building through the stair wells located at the east and west wings of the building. A meeting/parking space, located at the gazebo is identified with a number in coordination with your assigned classroom. Do not park any vehicles or in any way obstruct first responders' direct access to the building.
 - b. **SHELTER-IN-PLACE** = Enter the stairwell located directly in the east or west wing that is located in the same wing as your classroom. Walls at each stair level are marked with a number identifying your classroom.
 - c. **ACTIVE SHOOTER** = Evacuation of the building is the first choice during an Active Shooter situation. Our meeting place is the back parking lot of the fire department located one block north of the building - down towards the Jewel Grocery store. Hiding in the designated room is a second option. The designated room on the third floor is the library. You should quickly egress to the library and secure the room.
2. **PROFESSIONAL CONDUCT:** Unacceptable conduct will not be tolerated. Students will be withdrawn from class participation and returned to their office. Course credit will not be provided. Supervisors will be contacted.
3. **SAFETY and HEALTH PROGRAM:** DTE/OTI follows the OSHA Field Safety and Health Manual. Students must follow instructions regarding safe use of equipment, personal protection, and personal conduct. Contractors will follow the DTE SHMS Program and all OSHA regulations. Students and visitors must stay clear of any area where contractors are performing work.
4. **CELL PHONES, LAPTOPS, & DEVICES:** All electronic devices must be turned off or placed in silent mode during course instruction and at the discretion of the instructor. Texting will not be tolerated during class sessions. If you require an exception, notify the course chairperson. Laptops may be used for various sessions or workshops at the discretion of the chairperson/instructor.
5. **FULL ATTENDANCE:** You must attend all required course curriculum. In the event of absence, the course chairperson must be contacted and made aware of the purpose for

your absence. This includes early departure from the course on the final day and students must have prior approval from their respective office.

In the event of illness or the need for medical services, students must report to the course chairperson by 8:00 am.

6. **SECURITY BADGES:** Badges must be worn at all times. Students and visitors must enter and exit the facility through the front lobby only.
7. **RESTRICTED AREAS:** Student access to the 3rd floor, labs, and duplication office and dock area is prohibited unless accompanied by OTI staff. Visitors must be escorted by DTE staff.
8. **ATTIRE:** Casual attire is acceptable while attending courses. Shorts are prohibited. Proper footwear is required and sandals are prohibited during course laboratory demonstration.
9. **SHIPMENT of COURSE MATERIALS:** Shipping materials are available on the second floor. Participants must use the service account authorized by your office. The OTI address is not authorized for use by students or visitors. You must use your official office address only. Do not leave any parcels in the front lobby.
10. **PERSONAL ITEMS:** Items such as, but not limited to purses, glasses, electronic devices and clothing are the sole responsibility of the owner.
11. **FOOD and BEVERAGES:** Consumption is allowed in the classroom with discretion. Students should clean their respective area and dispose of all waste before exiting the premises each day. DTE maintains a recycling program.
12. **LIBRARY:** DTE maintains a library located in the east wing of the 2nd floor. Hours are 9:00 am to 3:00 pm, M – F.
13. **PARKING:** Restricted to DTE facility parking lot. Cars parked at other locations may be ticketed and/or towed at the owner's expense.
14. **LUGGAGE:** Do not leave any luggage or parcels in the front lobby. Keep all luggage in your control while in the building. Students must bring any luggage to the classroom.
15. **SMOKING:** Smoking and Vaping is prohibited inside any federal building. Designated smoking areas are provided on either side of the front, main entrance. Receptacles are provided for disposal.
16. **NONENDORSEMENT OF COMMERCIAL INTERESTS:** The OSHA Training Institute uses outside contractors from private consulting firms, technical equipment manufacturers and safety supply firms for demonstration purposes only. These external

entities may have proprietary interests. OTI does not promote or endorse any individual or product.

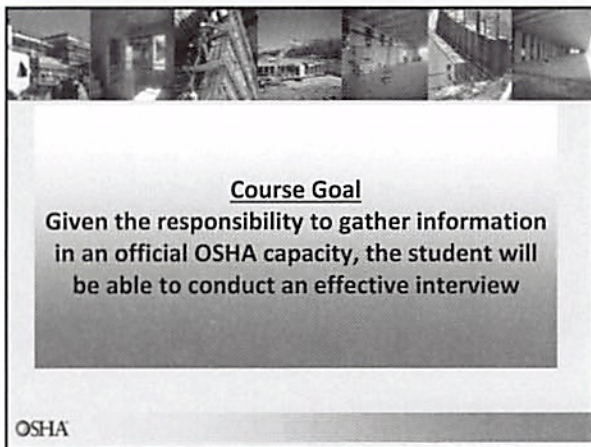
- 17. COPYRIGHTED MATERIALS:** Various materials presented and used for the purpose of delivery and understanding of course content are solely granted to the OSHA Training Institute. Students may not reproduce, distribute, display, or make derivative works without approval from the original author/creator.
- 18. STUDENT TRANSCRIPTS and RECORDS:** Students may access their OTI course record through LearningLink history. Those without LearningLink access must submit a transcript request to oti.registration@dol.gov
- 19. INTERNET:** Computers are available as a courtesy on the second floor. Log out of any official and personal websites and browsers when you complete your session.

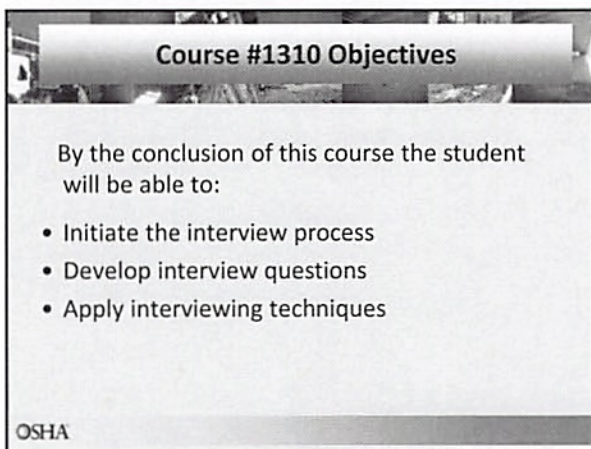
#1310 Course

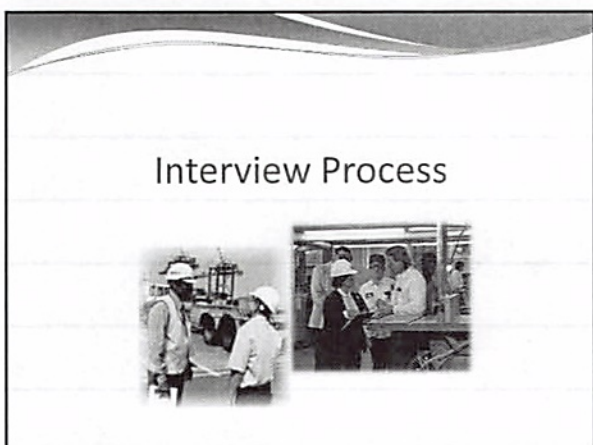
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 - FOM Guide
 - FOM Chapter 3
 - FOM Chapter 11
 - Nonverbal Communication Reference
 - Communicating OSHA Fatality to Victims Family
 - Definitions & Examples of Types of Interview Questions
 - Investigation Procedures Manual – Civil Rights Division
 - Multi-Cultural Diversity
 - OSHA Statement Form 181A-B-C
 - OSHA Whistleblower Policy
 - Self-Assessment for Course 1310









**At the conclusion of this lesson
you will be able to:**

- Recognize types of interviews
- Recognize characteristics that differ among interview types
- Prioritize interviews

OSHA Policy

1. Can employees' confidential information be released?
2. Who can be present during an employee interview?
3. If an employee refuses to be interviewed, what can a CSHO do?

FOM Chapter 3, Section VII. I. (page 3-17) - Interviews of Non-Managerial Employees
FOM Chapter 3, Section VII. K. (page 3-19) - Administrative Subpoena.
FOM Chapter 15, Section I. D. (page 15-1) Issuing Administrative Subpoenas

Recognize Types of Interviews

- Complaint
- Impromptu
 - Done without any previous preparation
- Planned
- Fatality/Catastrophe
- Follow-up



Recognize Types of Interviews

- Complaint
 - Formal or Informal
- Impromptu
 - Walkaround
- Planned
 - Prioritize logical sequence of questions
 - SSTs, NEPs, LEPs



Recognize Types of Interviews

- Fatality/Catastrophe
 - Determine key people to interview
 - FOM Chapter 11
 - Section II. D. (page 11-5) Interview Procedures
- Follow-up
 - Utilize to clarify misunderstandings or obtain additional information



Characteristics That Differ Among Interview Types

- Structure of interview
 - Determine if an interview is needed to document potential hazards
 - Have a plan for questions asked as well as a logical sequence to questioning
 - Key points you want to cover
 - Establish rapport
 - Inform employee of their rights 11(c)
 - Summarize the interview
 - Close



Characteristics That Differ Among Interview Types

- Types of questions
 - Asking questions in the correct way is the backbone of interviewing techniques.
 - Here are examples of questions we will be discussing in the next lesson:
 - Direct/Indirect
 - Where is the Bathroom? - Direct
 - Could You tell me where the bathroom is? - Indirect
 - Open ended/closed ended
 - How do you go about purchasing a home? - Open Ended
 - Do you Work Here? - "Yes" or "No" - Closes Ended
 - Probing
 - "Why"



Characteristics That Differ Among Interview Types

- Documentation required
- Interview statements
 - Formal (signed i.e., fatality or catastrophe)
 - Non-formal (part of field notes)
 - Recorded (obtain consent of person being interviewed)



FOM Chapter 3, Section VII. I. 5. b. (page 3-18) - Interview Statements

Characteristics That Differ Among Interview Types

• Physical location

- Select an environment that minimizes distractions while maintaining the comfort level of interviewee
 - Private area (no eavesdropping, minimal noise and distractions)
 - Worksite designated room
 - Neutral location
 - Off-site (e.g., Union Hall, restaurant, telephone, etc.)

FOM Chapter 3, Section VII. I. 3. (page 3-17) Time and Location of Interview



Characteristics That Differ Among Interview Types

• Persons present during employee interview

- Management
 - Could be considered as interference with the inspection.
- Union Representative
- Family
- Attorney
 - Personal
 - Company
 - Potential conflict of interest.



FOM Chapter 3, Section VII. I. 5. a. (page 3-18) Conducting Employee Interviews

Characteristics That Differ Among Interview Types

• Environmental stressors

- Noise
 - Difficulty conducting interviews in noisy area; try to go to a quiet area if possible
- Heat/Cold
 - Extreme temperatures can make conducting interviews difficult; try to find a room or trailer that is either air conditioned in the summer or heated during the winter



Characteristics That Differ Among Interview Types

- Environmental stressors (cont'd)
 - Respiratory Protection
 - Conduct interview in area where respiratory protection is not required to be worn
 - Other
 - Supervisors or other employees in area
 - Work is going on around employee being interviewed



Characteristics That Differ Among Interview Types

- Communication
 - Establish rapport
 - Try to find a mutually common topic to gain their trust and respect
- Language
 - Determine if employee's comprehension of English is sufficient to conduct an effective interview
 - Apply cultural sensitivity during interview



FOM Chapter 3, Section VII, I. 5. a. (page 3-18) Conducting Employee Interviews

Characteristics That Differ Among Interview Types

- Resources
 - Interpreter
 - General Services Administration (GSA) tele-interpreter or use area office's protocol for interpreters
 - OSHA's Field Operations Manual (FOM)
 - Follow FOM policy when conducting interviews
 - 1310 Course reference tab

FOM Chapter 3, Section VII, I. 5. a. (page 3-18) Conducting Employee Interviews

Prioritize Interviews - Inspections

- Management
- Union
- Witnesses
- Employees
- Local Officials
- Other



Prioritize Interviews

- Management
 - Supervisors, Company Owner/Representative
- Union
 - Representative of employee if requested
 - Attorney
- Witnesses
 - Co-workers, bystanders, management officials

Prioritize Interviews

- Employees
 - Proximity to work activities
 - Duration of employment
- Local Officials
 - Federal, State, Municipal
- Family
 - Immediate, distant
- Other
 - Employee attorney, friends, acquaintances



Prioritize Interviews – When Incident Command System (ICS) Is Present

- Local Officials
- Management
- Union
- Witnesses
- Employees
- Other



Lesson Summary

- Recognized types of interviews
- Recognized characteristics that differ among interview types
- Prioritized interviews

Workshop # 1

Recognize Types & Characteristics That Differ Among Interviews

Workshop #1: Recognize Types & Characteristics That Differ Among Interviews

Be sure to read the instructions before beginning. Consult with your instructor if you have any questions.

Targeted Skills:

1. Recognizing different types of interviews
2. Becoming aware of interview location considerations
3. Determining the purpose of an interview
4. Noting time and other essential information
5. Identify environmental factors/stressors affecting an interview
6. Accurately recording interview information and facts

Workshop #1: Instructions

1. For this workshop, you will be assigned to a work group by your instructor. Your group will be observing a video of an interview.
2. You will observe the video and take notes relevant to the workshop questions below.
3. As a group, you will discuss your observations in relation to the questions and note any anomalies.
4. Your video will then be displayed to the class and then each group will be expected to report out on their findings. Please note that although you may assign a spokesperson, the instructor reserves the right to ask questions of each person within the group.
5. Consider utilizing your course materials and any information from the lecture that was conducted immediately prior to this workshop
6. Be sure to consult with your instructor, if you have any questions or require additional clarification.

Workshop #1 Questions

1. What type of interview is the CSHO conducting?

2. What is the CSHO's reason for being onsite? Why is the CSHO Conducting this interview?

The employees were in violation of ~~at~~ least one safety standard.

The CSHO was attempting to determine the employees relation
to the affected duty and gather more information about the
~~at~~ potential hazard

3. Identify environmental factors/stressors that are affecting the interview:

wind+(noise)

other employee activity

4. Where was this interview conducted (i.e. Shop floor, Conference Room, etc.)?

parking lot / rear of building

5. Who did the CSHO interview during the video?

manager

employee directly affected by potential hazard

6. Would you document this interview with a statement, field notes or both? Why?

7. Identify any other communication barriers that may exist with this interview.

8. What preparation and or resources would you utilize prior to or during this interview to make it more effective?

9. Did the CSHO establish rapport with the interviewee? How?

10. Is there a logical sequence to the CSHO's line of questioning? Why?

Workshop # 2

Prioritizing Interviewees

Prioritizing Interviewees

- In many situations you will arrive at a location where there will be multiple subjects
- Knowing where to begin will help you to best control the flow of information you will receive from interviews

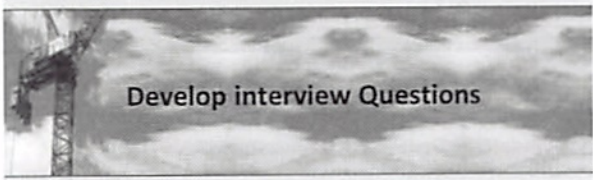
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Prioritizing Interviewees

- For this section we will review a video scenario
- As a group we will discuss the recommended priority of subjects to be interviewed for the given scenario

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Develop interview Questions



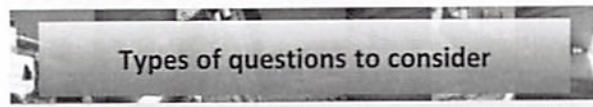
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At the conclusion of this lesson you will be able to:

- Recognize types of questions
- Construct direct/indirect questions
- Construct open/closed questions
- Construct other types of questions

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Types of questions to consider

▪ Direct and Indirect	▪ Investigative
▪ Closed and Open	▪ Exploratory
▪ Talk and Observe	▪ Corrective
▪ Probing	▪ Strategic
▪ "Why" question	▪ Sequential

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Direct Questions

- Direct questions ask the interviewee about an action, concerning who, when, where, how and why without mincing words; the question goes straight to the point.
- Direct questions help to clarify information.

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espressoenglish

DIRECT & INDIRECT QUESTIONS IN ENGLISH

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Direct Questions - Examples

- *Did you ever disciplined anyone for not following safety rules?*
- *Do you know what the rules are?*
- *Have you ever been informed of these rules?*
- *Are there any inspections done on the equipment?*
- *Did you ever tell anybody about the lock pins?*

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Indirect Questions

- Indirect questions are questions that don't seem like questions; it is like beating around the bush.
- Indirect questions are recommended for interviews because they are questions without the threat associated with direct probe.

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Indirect Questions - Examples

- *I'd like to know how do you feel about the safety procedures here?*
- *I was wondering what you do when the fire alarm sounds?*
- *Could you tell me where the SDS binder is located?*
- *Do you know how to clean that respirator?*
- *Do you have any idea what time the supervisor comes through this area?*

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Closed Ended Questions

- During the Complaint or Referral Process, this line of questioning gathers specific information to document the company's safety and health programs as well as to obtain all of the required information for inspection forms.

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Closed Ended Questions - Examples

- *What is the name of your business?*
- *How many employees work in the spray paint area?*
- *Do you have an Employee Bargaining Agent (Union)? If so who?*
- *What is your FID number?*

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Open Ended Questions

- Directs the interviewee to tell the interviewer more about a subject or an event
- Typically the question begins with how, what or can and they stimulate thought and discussion
- Interviewer can let the interviewee keep talking and occasionally ask a direct question for specific information
- Remember, you are seeking more information from the person you are interviewing.

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Open Ended Questions - Examples

- *Can you tell me how this process works?*
- *Can you explain to me your knowledge of the company's respiratory protection program?*
- *Can you tell me the procedure for removing the jammed part out of the machine?*

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Talk and Observe

- In this style, open ended questions frequently are used to start the interview. The purpose is to get the interviewee to talk while the interviewer listens. You will use this method:
 - During the Opening Conference
 - During the Walkaround
 - When interviewing Management Personnel
 - When interviewing Hourly Employees

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Talk and Observe - Examples

- *Can you tell me what your typical day is like?*
- *Can you explain the process of how you would report an unsafe condition?*
- *In case of a small fire, what would be required of you to do?*



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Other Types of Questions to Consider

- While conducting an interview, you may also find yourself using the following types of questions:

Probing
"Why" Question

Rhetorical
Leading Questions



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Probing Questions

- Probing questions are good for:
 - Gaining clarification to ensure you have the whole story and that you understand it thoroughly.
 - Drawing information out of people who are trying to avoid telling you something.



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Probing Questions (Cont.)

- Indirect or Direct: In this style, open ended questions frequently are used to start the interview.
- The purpose is to get the interviewee to talk while the interviewer listens.



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Probing Questions - Examples

- Have you received training in the forklift operations?
- When did you received such training?
- Who provided this training?
- Can you recall what you did during the training?
- Were you trained on this particular forklift?
- How long was the training?
- When you do your shift inspection, what do you look for?
- Who receives a copy of your shift inspection?

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"Why" Questions



- It is very difficult to use "why" without being judgmental and indicating the interviewee must have done something wrong.
- Some researchers feel that asking "why" will frequently cause the interviewee to withdraw, rationalize, defend or attack. This is why establishing rapport first is very important.

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"Why" Questions (Cont.)



- The use of the "why" question asks for complex motivations for behavior that may not be readily understood by the interviewee.
- The Compliance Officer should have all the necessary information to document a violation before asking the "Why" question.

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"Why" Questions - Examples



- Instead of a direct approach:
 - "Why did you follow that procedure?"
 - Consider this approach: "Was there a reason you followed that procedure?"
 - "Why did you allow the press to operate when the control arm was so close to the ram?"
 - Try this: "Is it a common practice that the press was allowed to operate with the control arm so close to the ram?"

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"Why" Questions (Cont.)

- All the reasons to avoid the "why" question might be valid; however, as a Compliance Safety and Health Officer, the "why question" is important to ask to obtain important information.
- The "why" question should be asked **once the Compliance Officer has established rapport** with the interviewee and has avoided the appearance of being **accusatory** or judgmental.

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Types of Rhetorical Questions

- Rhetorical questions aren't really questions at all, in that they don't expect an answer. They're really just statements phrased in question form: "Isn't John's design work so creative?" or "What's the matter with kids today?"
- Rhetorical questions are often asked to emphasize a point with obvious answers: "You didn't possibly think I would say yes to that did you?" or "Can we do better next time?"

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Rhetorical Questions - Examples

- *Do you think we will ever be without war in this world?*
- *Would you like it if there were no injuries at this company?*
- *The most famous line from Hamlet "To be or not to be?" that is the question.*
- *Did you see that driver make that turn, what was he thinking?*

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Leading Questions

leading
 23

- A leading question is a question that is not neutral and leads the interviewee to the answer the interviewer is seeking.
- Leading questions reveal information the interviewee may not have known and lead to a desired response.
- Leading questions should not be used in a way that harms the interests of the other person; be careful how you use them.

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Leading Questions - Examples

- Do you feel that you were properly trained by management?*
- What kind of PPE are you issued? Gloves, Safety Glasses, Hard Hat?*
- Are there problems with the specific lockout procedures you were trained on?*
- It's very loud in here, what kind of hearing protection is issued to you?*



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Accusative Questions

Accusative questions will do little to increase communication because of their highly threatening nature and have no useful function in an interview.



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Accusative Questions

- *You knew the machine was jamming frequently, and you allowed her to work without the guard to quickly remove the parts?*
- *You saw him on the roof without the harness, and you just let him work like that?*
- *Can't you do anything right?*
- *You knew he had no training on this machine, yet you still allowed him to operate it?*

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Specific Intent Questions

- The three dimensions of an interviewer's intent are:
 1. Investigative
 2. Exploratory
 3. Corrective



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Investigative Intent

- Questions with an investigative intent are linear questions that ask:

Who, What, Where, When, and How



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Investigative Intent - Examples

Questions with an investigative intent are linear questions that ask:

- *Who else was involved in the incident?*
- *What were you doing just before his fall?*
- *Where were you standing at that time?*
- *When was the last time you saw Joe?*
- *How were the guard rails attached to the posts?*

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Exploratory Intent Questions

- Exploratory questions are circular questions.
- Circular questions assume a circular model of causality, meaning the events reciprocally influence each other.



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Exploratory Intent Questions - Examples

- *"What is the difference between the training you received here and at your last job?"*
- *Do all the press operators receive the same training? And if so, explain what training is given.*
- *Does management ever walk through this area? If so, how often? And who?*



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Corrective Intent/Strategic

- Corrective intent is a question with corrective intent.
- Strategic questions are attempts to stop the interviewee's behavior and persuade them to change in a particular way.



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**Corrective Intent/Strategic Questions –
Examples**

- *Would you agree that wearing and using the body harness and life line is a good idea when above 6 feet elevation?*
- *Do you believe wearing safety glasses saves eyes?*

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**Corrective Intent/Strategic Questions –
Examples (Cont.)**

- Interviewee: *"I have to be more careful when operating the forklift machine."*
- Interviewer: *"What prevents you from being more careful?"*

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How do I get started? One technique is to reconstruct the Circumstances (Sequence)

- In this method the interviewer instructs the witness to reconstruct the incident in general, and include all details no matter how trivial.



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Reconstruct the Circumstances (Sequence)

- The interviewer might ask to reverse the order of the incident (This technique is used to clarify the witness's recollection).
- In this method witnesses try to recall the incident from different perspectives. They may adopt the perspective of others who were present during the incident and think about what he or she must have seen.



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Lesson Summary

- ✓ Develop Interview questions
 - ✓ Recognize types of questions
 - ✓ Construct direct/indirect questions
 - ✓ Construct open/closed questions
 - ✓ Construct other types of questions

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Role Play #1: WORKSHOP

Develop Interview Questions - Skills Practice

- Adopting an Interviewing Approach Based on Circumstances
- Selecting a Style of Questioning



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General role play information.

- For this role play, you may assume you have introduced yourself and established the purpose of the interview. Focus on interviewing approaches and styles of questioning.
- An instructor will assign each student with an identifier (Letter or Number)
- The instructors will play the role of a subject that relates to the corresponding identifier as noted below
- The students will interview the subject (instructor) in an official capacity as a CSHO
- The instructor will time each interview and provide feedback in regard the demonstrated skills.
- Use the Role Play #1 Coaching Tool provided to assist you with what you will be evaluated on.
- Students observing the interview can use the Role Play #1 Coaching Tool to provide feedback to the student once the role playing has been completed.
- Be sure to consult with an instructor, if you have any questions or require additional clarification.
- **Note:** The interviewee may be the employer, an employee or a union steward; the instructor will decide.

Scenarios for Role Play #1

Scenario #1: A CSHO is assigned to inspect a restaurant due to a formal complaint that included the following:

- a. Heat stress affecting the cooks working over hot grills
- b. Slipping on greasy floors in the food preparation area
- c. The walk-in freezer lock is defective and causes employees to get trapped inside

Scenario #2: A CSHO is on an SST walkaround and sees an employee using a green solvent to wash parts. The CSHO stops to ask the employee about his/her job, training and PPE used.

Scenario #3: A CSHO is conducting an accident investigation involving a fall from an unguarded platform in the spray paint area. The CSHO enters the lobby and approaches the receptionist.

Scenario #4: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- While operating a material cutting pattern saw, employees are exposed to unguarded cutting surfaces, exposing the operators to more than three inches of exposed saw blade.

Scenario #5: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- In the warehouse, powered industrial trucks are being operated by untrained employees. An employee was injured by falling stock from a fork truck operated by an untrained operator.

Scenario #6: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- A Toyota 10-ton fork truck is being operated with defective brakes.

Scenario #7: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- Exit routes in the southwest section of the production area are blocked with stock and material for the sewing machines.

Scenario #8: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- Fire extinguishers are expired and employees are not trained in their use. However, employees are expected to put out small fires in their work areas.

Scenario #9: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- Employees are exposed to chemicals (possibly formaldehyde) in the permanent press ironing area.

Scenario #10: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- Employees in the sewing area and compressor room are exposed to a high volume of noise without hearing protection.

Scenario #11: Complaint at a clothing manufacturing company

The OSHA Area Office received an eight item safety and health complaint from the Amalgamated Clothing and Textile Workers' Union #345. The complaint alleges the following hazardous conditions at *Gentlemen Jack's Clothing Company*:

- Employees are exposed to boiler water treatment chemicals without personal protective equipment

Role Play #1: Interview Questions

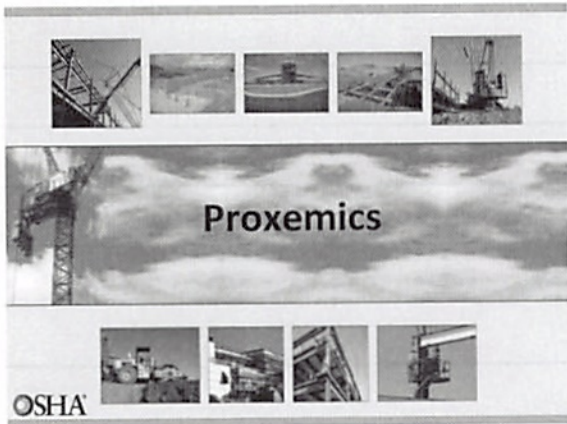
Role Play #1 focuses on these interviewer skills:

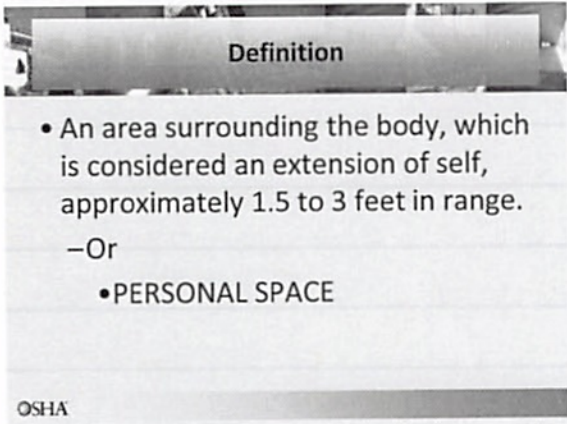
1. **Adopting an Interviewing Approach Based on the Circumstances.** The CSHO may conduct an interview as part of a complaint, referral, or opening conference. He/she may interview management, hourly employees or walkaround representatives. The situation may include a fatality or catastrophe, news media, victims' relatives or other unique circumstances.
2. **Selecting a Style of Questioning.** Styles of questioning can include: open ended, closed ended, direct, indirect, probing, "why", investigative, exploratory, corrective, strategic, and sequential.

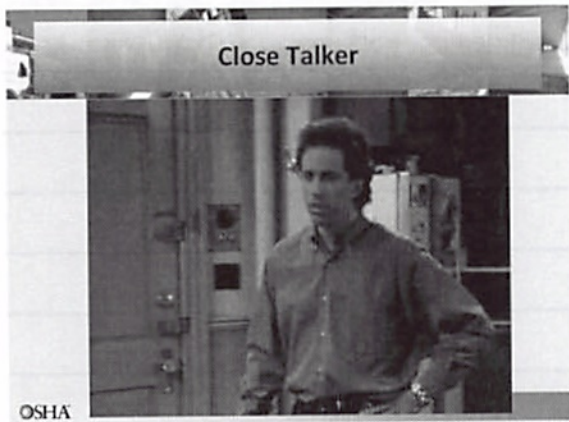
You will be evaluated on the following skills:

Role Play #1 Coaching Tool		
Name of Interviewer: Name of Interviewee: Coach:		
1. Skill: Interview Approach	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO adopt an appropriate approach based on the circumstances?	<i>(Write key words or phrases used by the CSHO here.)</i>	
2. Skill: Style of Questioning	Did CSHO Display the Skill?	Coach Comments
Did the CSHO try varying styles of questioning during the interview? (Y/N)	Which styles of questioning were used? <i>(Circle all that apply)</i> closed ended corrective exploratory investigative probing sequential strategic direct indirect open ended leading "Why" rhetorical	
3. Skill: Open Ended and Closed Questions	Did CSHO Display the Skill? (Y/N)	Coach Comments
a. Did the CSHO use open ended questions? b. Did the CSHO use closed ended questions? c. Did the CSHO effectively switch between styles?	<i>(Write key words or phrases used by the CSHO here.)</i>	

4. Skill: Indirect and Direct Questions	Did CSHO Display the Skill? (Y/N)	Coach Comments
a. Did the CSHO use indirect questions? b. Did the CSHO use direct questions? c. Did the CSHO effectively switch between styles?		
5. Skill: Probing Questions	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO use probing questions effectively?		
6. Skill: Why Questions	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO use "Why" questions effectively?		
7. Skill: Other Types of Questions	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO use other types of questions effectively?		







Personal Space

- What do you consider your Personal Space?
 - A supportive approach requires that we honor personal space.
 - Personal Space varies from person to person.
 - An individual's Personal Space can also change from one situation to another.

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Anxiety

- What happens to you when someone enters your Personal Space?
 - Invasion of an individual's Personal Space may increase anxiety.

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Social Experiment



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Factors

- Factors may influence Personal Space.
 - Gender Factors
 - Past Experience Factors
 - Size of Person
 - Environment
 - Culture
 - Circumstances.

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Cultural Differences

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Possessions

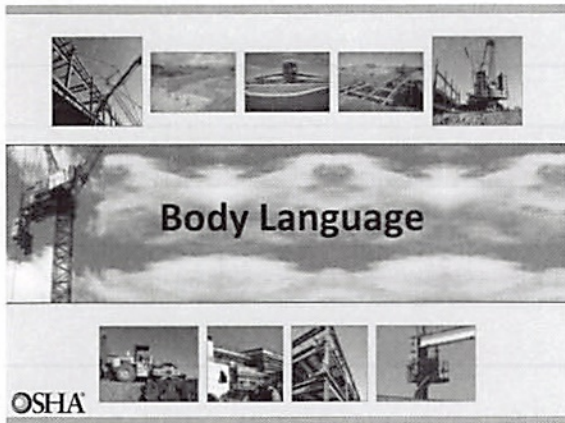
- Personal space may also extend to personal possessions.
 - What personal possessions do you consider personal space?

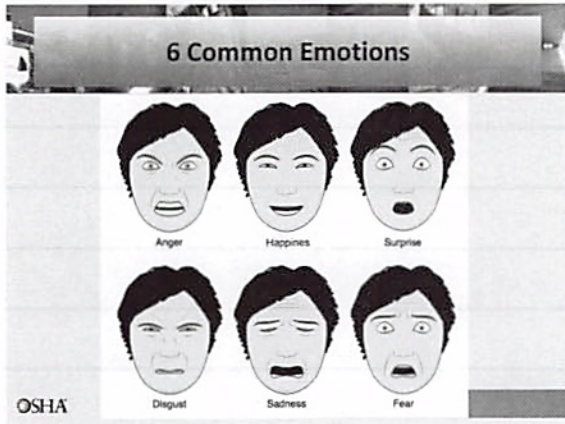
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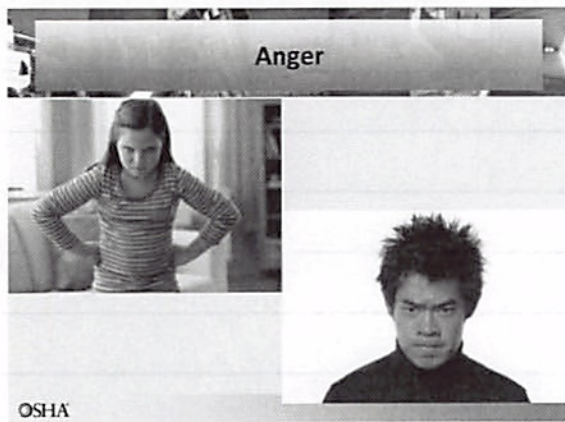
Safety

- For our own safety and comfort, we should maintain adequate Personal Space for ourselves.

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Disgust



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Sadness



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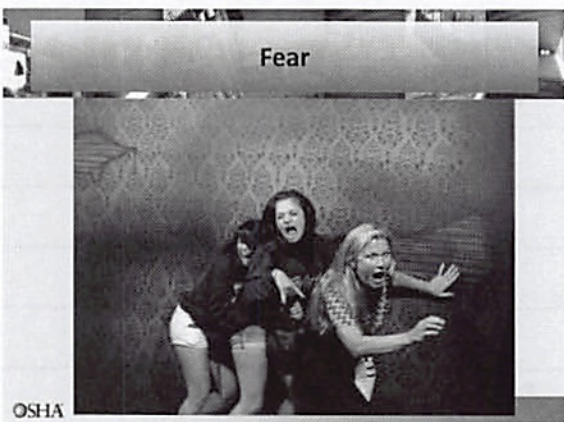


Fear

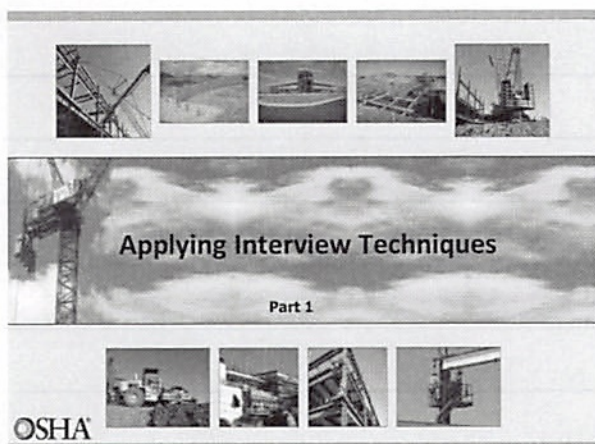


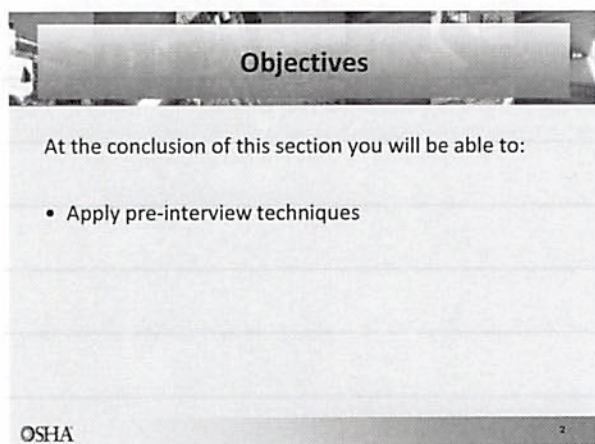
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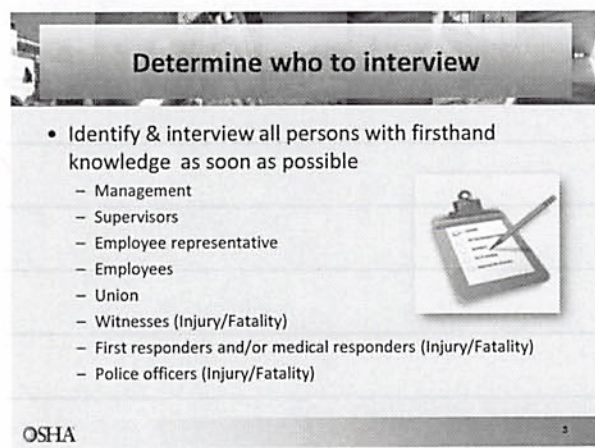












Recall OSHA Policy

- Section 8(a)(2) of the Act authorizes the CSHO to question any employee privately during regular working hours in the course of an OSHA inspection.
- The purpose of such interviews is to obtain whatever information the CSHO deems necessary..... Individual interviews are authorized even when there is an employee rep present.

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Recall OSHA Policy (Cont.)

- Per FOM Chapter 3.VII.I.5.b (page 3-18) if taking a statement this is usually done in a room sitting down with selected people in a private setting (however not in all cases). Statements shall include the words, "I request that my statement be held confidential to the extent allowed by law" and end with the following; "I have read the above, and it is true to the best of my knowledge". This statement is usually documented on a separate lined paper or on Form #181.

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Recall OSHA Policy (Cont.)

- Interviews may be conducted at any time during an inspection.
- If necessary, interviews may be conducted at locations other than the workplace.
- If a translator is needed to conduct an interview, call GSA tele-interpreter service

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Location

- Interview Location
 - Worksite designated room
 - Your Office
 - Subjects Office (least desirable)
 - Other neutral location



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Introducing Yourself

- Introduce yourself while displaying credentials
 - Eye contact/handshake – distribute business card
 - State your purpose
 - Begin with background questions.
 - Inform them of their protection rights 11(c)
 - Try to communicate in a subject that is mutually common to gain their trust and respect



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Building Rapport

Use Your Interviewer's "Tool Box"

- Building rapport is an example of a base line skill
- Every CSHO should be able to establish rapport with the person being interviewed
- If the CSHO is unable to establish rapport he/she should be aware that the inability to establish rapport could be what is preventing the interviewer from conducting a good interview



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Building Rapport (cont.)
Use Your Interviewer's "Tool Box"

- Be friendly, and show respect
- Show interest in the other person, and smile
- Be a good listener
- Use the person's name
- Encourage others to talk about themselves
- Talk in terms of the other person's interests
- Let the other person do most of the talking

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Building Rapport (cont.)
Use Your Interviewer's "Tool Box"

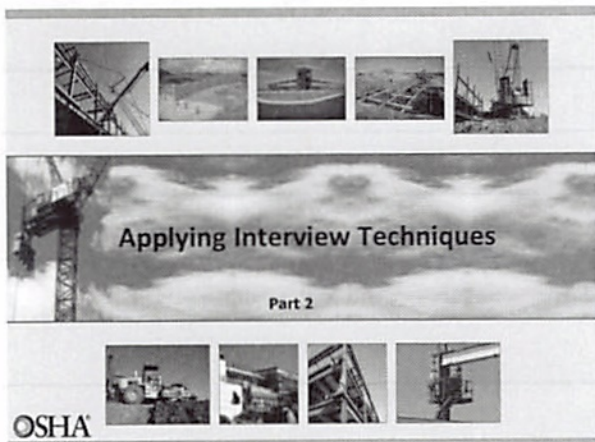
- Let the other person feel this is their idea
- Try to see things from the other's point of view
- Recognize signals from body language
- Honor personal space
- Identify possible cross cultural factors that may affect the interview
 - Ex. Eye Contact, Personal Space, Language

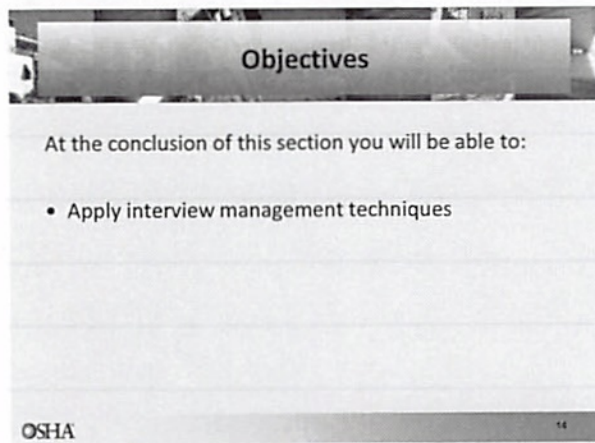
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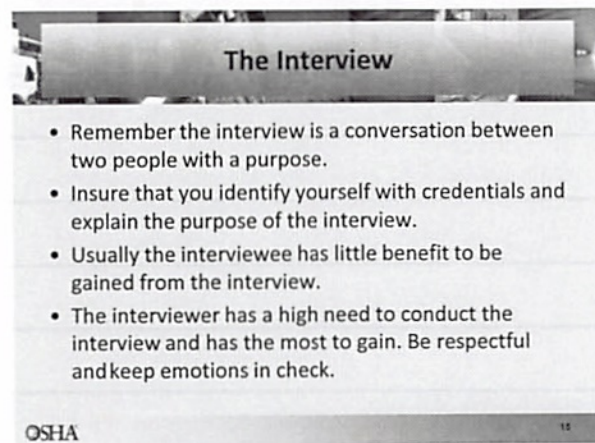
Summary

- Pre-interview techniques
 - Determine who to interview
 - Select interview location
 - Establish rapport

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Importance of Interviews

- Most information in accident investigations comes from interviews.
- Information provided from witnesses, victims, informants and others is an important element of an investigation.
- In accident and non-accident inspections, employees with knowledge of the work operation such as: a foreman, maintenance worker, machine operator or manager may provide information that is important to the inspection.

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The Big Picture



- Don't develop tunnel vision! When dealing with incidents, you are dealing with people.
- Anticipate the range of emotions with which you will be dealing.
- Prepare to respond using empathy.
- When you arrive at the inspection site see what is going on around you and take notes, both mental and written.

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Interview Goals



- To encourage the employee or witness to volunteer information without prompting.
- To encourage the witness to report all details even if they seem trivial.
- Obtain information to validate concerns and don't forget to document the four elements of a violation.
- When you feel a violation has occurred, ask the questions that will help substantiate the prima facie elements of the citation.

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What to focus on?

- Who should be interviewed?
- Why interview certain people?
- What order to ask questions?
- What questions will bring out the facts and information?
- How will time impact the information? Do you need to move fast in order to get the facts?



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Empathy vs. Sympathy



OSHA 20

Exhibiting Empathy

- It's all about the other person:
 - What are they feeling?
 - What are they thinking?



OSHA 21

Empathy

- Label the emotion
- Consider the impact of the emotion on the person
- Act/react accordingly
- Consider your words and actions

OSHA 22

Empathy

- When people are involved in an accident, or an OSHA inspection, they are experiencing different levels of emotions.
 - As an authority figure, the CSHO needs to be cognizant that
 - You are a source of emotion for the persons you come in contact with.
 - You may be affecting the interviewee's emotions, either negatively or positively.

OSHA 23

Empathy Language

Be careful not to say.....

"You sound like you are upset..."

"You seem frustrated..."

"I hear..."



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Empathy

- Beware of your own emotions and their effect on others
- Your emotions impact an interview as well



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Empathy : Closing Thoughts

- Empathy helps in establishing rapport
- Empathy also helps to absorb tension
- Be selective when you use the skill of empathy
- Let the person know you can not imagine what they are going through and ask how you may help



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Active Listening



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Active Listening

- Direct and continuous eye contact (Cultural/gender exceptions)
- Directly face the interviewee
- If sitting, lean slightly forward towards the interviewee (Cultural and gender exceptions)
- Hand gestures should go along with what the interviewer is saying.



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Active Listening Tools



- Silence
- Encouragers
- Reflecting
- Mirroring

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Mirroring and Active Listening



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Active Listening Tools**Mirroring**

- CSHO repeats the last words or main idea to make sure the interviewer understands the interviewee
- Allows the other person to hear what they said word-for-word
- Allows opportunity for them to clarify or change their choice of words

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Active Listening Tools**Reflecting**

- CSHO summarizes or paraphrases what the person is saying in their own words
- Allows the CSHO to check and make sure they understood what the interviewee said and their emotion
- Allows opportunity for them to clarify or affirm what they said

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Active Listening**Venting**

- Allow the subject to vent, it uses energy
- Remain silent
- It gives the impression that you are a good listener

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Active Listening

Which of the Active Listening Tools might you choose when someone is venting?



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Active Listening

Encouragers

- Use some minimal encouragers
- Make the phrase second nature through practice
 - “I see”
 - “Tell me more”
 - “I think I understand, please continue”



OSHA 35

Active Listening

- Statements to be avoided:
- “I understand:”
- If the interviewer does understand, they can prove it by describing the interviewee’s feelings. (aka empathy)
- If the interviewer’s responses are correct the interviewee will confirm “yea”, “you got it”, “that’s right” or a non-verbal response.

OSHA 36

Active Listening

Silence

- Active listening gives the CSO time to think.
- Don't write a script in your head.
- Don't interrupt while the other person is speaking.



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Active Listening

Silence

New interviewers

- May ask too many questions without giving the interviewee time to digest what was asked.
- Be too quick to ask questions.
- Strive for periods of silence to help manage the interview



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Active Listening

Interview Techniques

Don't intellectualize or give speeches. Use short responses and single questions.



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Kinesics

Nonverbal Communication

Refer to Reference on Nonverbal Communication:

- Introduction
- Recognizing Different Forms of Nonverbal Communication



OSHA http://www.osd.mil/dpap/cpf/docs/contract_rsk079_14500_11460207.pdf 40

Interview or Statement

- An interview is when you talk to an employee, manager or owner and document their responses in your notes without asking for a signature
- A statement is when you ask the interviewee for a signature such as for a fatality/catastrophe inspection

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Interview Statements

- Recall policy FOM Chapter 3 VII.I.5.b. (page 3-18) Interview statements of employees or other individuals shall be obtained whenever the CSHO determines that such statements would be useful in documenting potential violations.
- Remember to identify yourself, attempt to establish rapport and inform them the purpose of the interview.

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Interview Statements (cont.)

- Interviews shall normally be reduced to writing and written in the first person in the language of the individual. Employees shall be encouraged to sign and date the statement.



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Documentation (Cont.)

- Review FOM 11. II. E. (page 11-6) Specifically for fatality or catastrophe investigation. Information obtained from the witnesses can corroborate other evidence in the investigation. Therefore, it is important that this information be accurately documented in writing.

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Documentation (Cont.)

- Information obtained from the witness includes:
 - Personal data, incident data, equipment or process data, witness statements, S & H programs, records on maintenance, training, disciplinary verifications.
- If electronic device is used, the recording should be reduced to writing as soon as possible.

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Technique

- One technique is to inform the interviewee that you will be taking notes for accuracy.
- You inform the interviewee that your technique is to let him/her tell their story without interruption, at which time you will be taking brief notes.
- You will then ask him or her to repeat their story while you take notes interrupting them only for clarification and summarization.

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Note Taking

- The goal of any interview is to provide information or evidence to further the inspection/investigation.
- Ultimately, the interview notes will be transferred on to an official report.
- Remember any notes that are kept may be subject to discovery.
- Note pages should be numbered.
- Interview statements pages should be numbered and identified.

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Integrity of The Notes

- If you keep your notes make sure you maintain the integrity of your notes.
- Your original notes may be reviewed in a court of law and any question regarding their accuracy and integrity might be the reason a case is jeopardized

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Note Taking

- There are several methods of note taking.
- One is the note pad.
- The other is the Note Taking Sheet OSHA form #94. (This is an old form that may still be used for notes or statement gathering)

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Note Pad

- The advantage of the note pad is that it offers plenty of room to write.
- The problem is that the note taker will have to number the pages and will have to tear the pages out of the note pad and store the notes with the case file.



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Electronic Recordings

- If you are conducting electronic recordings make sure you have enough tape (unless digital) and storage area for the recording.
- Try to find a spot that will have minimal background noise.



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Electronic Recordings (Cont.)

- Before you start recording make sure you develop rapport.
- Be cognizant of what you say, do not use accusative questions and off color remarks. This applies whether you are recording it or not.



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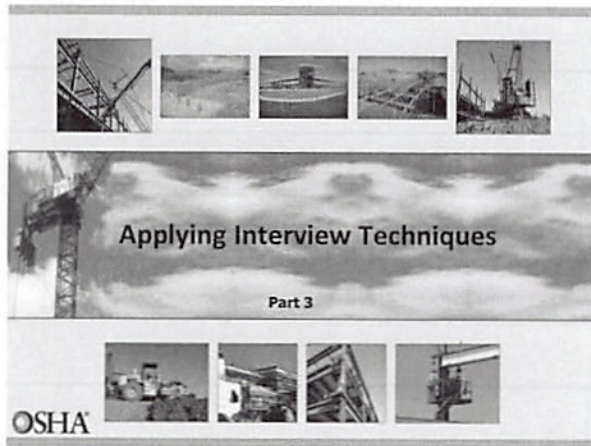
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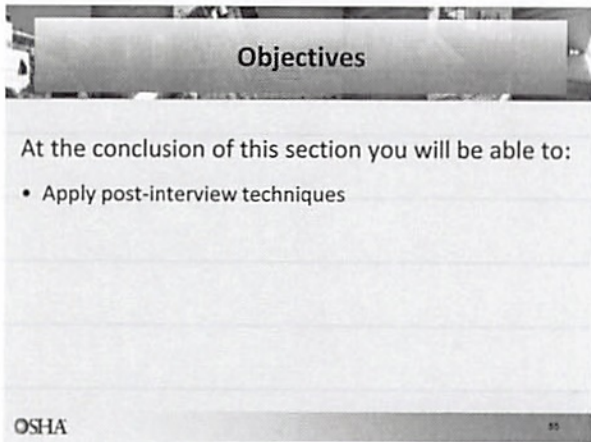
Summary

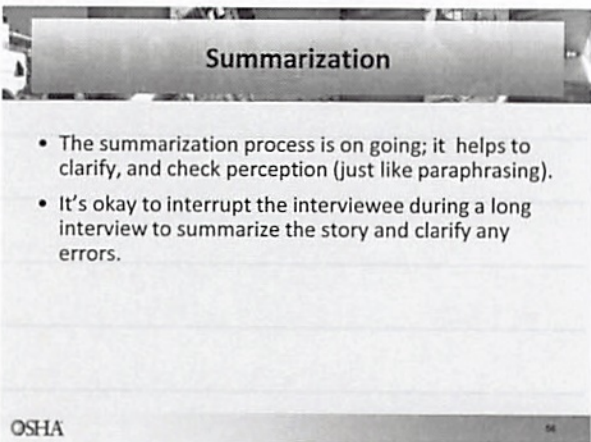
- Manage the Interview
 - Utilize a variety of question types
 - Exhibit empathy
 - Employ active listening skills
 - Maintain Rapport
 - Diffuse difficult situations
 - Paraphrase and summarize when necessary
 - Kinesics/Nonverbal communication
 - Document the interview (written or electronic)

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Summarization (Cont.)

- This shows the interviewee you are paying attention and care about what he/she is saying.
- Review all your notes and other written documents and read it back to the interviewee, and try to get his/her initials or signature to verify a true and accurate statement.



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Finalizing The Notes

- Read back the statement from your notes to include any personal data for accuracy.
- Once you read back the statement ask the interviewee if the statement is accurate.

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Finalizing The Notes (Cont.)



- Ask for a signature.
- Inform the interviewee that you ask for signatures as a part of your investigation in case there are questions regarding the accuracy of the statement.
- If they refuse to sign, ask them to read it and let you know if it is an accurate statement. If they say yes! then make a note to that effect on the statement and sign and date it yourself attesting to the accuracy.

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Follow-up Interviews

- Follow-up interviews
 - Typically held off-site by telephone or at a neutral location
 - Conducted to clarify information or to obtain additional information
 - One reason why employee's telephone number is important to obtain during initial interview
 - More information is often obtained because interviewer and interviewee are more relaxed

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11(c) Whistle Blower Policy

- 11(c) whistle blower policy
 - If during an interview the employee brings to your attention they have been discriminated against (i.e., pay cut, work shift change, verbal harassment) because of complaining about unsafe work conditions, take down the date and time of day it occurred and give this information to the 11(c) whistle blower investigator in your office.
 - Section 11(c) is covered under the OSH Act of 1970
 - The employee has 30 days from last adverse action to file a complaint with OSHA alleging such discrimination

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Other Possible Post-interview Actions

- Referral
 - Construction
 - Health
 - Safety
- Region or National Office Assistance
 - Significant Case
 - High Profile Case
 - Unusual Case

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Other Possible Post-interview Actions (cont.)

- Expert Technical Assistance (i.e., Salt Lake Technical Center)
 - Chemical Hazards
 - Biological Hazards
 - Physical Energy
 - Ergonomics
 - Engineering Controls
 - Process Safety
 - Collapsed Structures



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Summary

- Post-interview techniques
 - Summarize the interview
 - Conduct follow-up interviews
 - Other Possible Actions
 - 11(c) whistle blower investigation
 - Referral (i.e., construction, health or safety)
 - Region or National Office Assistance
 - Expert Technical Assistance

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Welding Inspection Scenario: Role Play

Apply Interview Techniques



1

Welding Inspection Scenario: Role Play

Apply Interview Techniques

- Complaint scenario
- AK Industries, Inc.
- Workers Perform Welding/Grinding Activities
- Refer to Role Play #2 Coaching Tool to assist you with the skills you want to use during the role play
- You will have 10 minutes to prepare for the interview

2

Welding Inspection Scenario (Role Play #2)

Apply Interview Techniques

The welding inspection is a complaint scenario for this skills role play. The focus will be on using your interviewing skills and documenting the information gained while conducting your interviews.

Be sure to read all the instructions before beginning the skills practice. Consult with your instructor if you have any questions.

Targeted Interviewing Skills:

1. Establishing rapport
2. Selecting a style of questioning
3. Applying cross-cultural sensitivity
4. Exhibiting empathy
5. Displaying active listening
6. Documenting the interview
7. Determine need for follow-up actions

Welding Inspection Scenario: Background Information

AK Industries, Inc. was established in 1999. The NAICS Code is 332322, Welding Repair. The company is primarily an outsource welder for companies such as Caterpillar. The company employs approximately 22 people and operates 3 shifts. Welding and grinding is performed in an area that is approximately 25,000 sq. ft. in size.

Ventilation for the area consists of a smog hog mounted on the east wall, three wall mounted down-draft columns, and six overhead doors. According to the General Manager, the six overhead doors mainly stay closed during the winter and are opened periodically throughout the day to allow trucks into the building. During warmer months, the doors are opened continuously. The General Manager was not personally aware of employees complaining about welding fumes. Sampling for welding fume exposures had not been conducted in the past. Potential exposures to welding fumes include the following metals: cadmium, copper, iron oxide, manganese, nickel, and zinc oxide fume. Dust masks and 3M ½ mask tight-fitting air-purifying respirators are available for voluntary use.

Welders work approximately 5-6 feet apart from each other. There are no welding screens in the area.

The General Manager stated that the production area can at times be noisy and hearing protection is provided for employees. Surface materials in the building consist of metal walls, metal ceiling, and concrete floor. The General Manager was not aware of employee complaints/concerns about noise levels. Monitoring for noise exposure levels had not been done.

Description of Video Clip:

Metal Inert Gas (MIG) welding on steel parts is being conducted. Welders are seen working next to each other without any welding screens. Visible fumes can be seen during welding activities. Damaged welding cables are seen.

Complaint Items:

- Workers complaining of headaches when performing welding/grinding activities
- Workers complaining of flash burns to the skin and eyes
- Hearing protection is not provided during welding/grinding activities
- Exposed wires on welding cables

Roles in this scenario played by instructor(s):

1. Union Representative
2. Human Resources Manager (Optional)
3. Welder/Grinder #1
4. Welder/Grinder #2 (Optional)
5. Apprentice Welder (Optional)
6. Complainant
7. Shop Supervisor
8. Maintenance Worker
9. General Manager
10. Company Owner (Optional)

Welding Inspection Scenario Role Play Instructions:

- View video clip of company being inspected (approximately 11 minutes).
- You will role play the CSHO.
- The instructor(s) will role play a subject that will relate to the welding inspection scenario.
- Use the Role Play #2 Coaching Tool provided to assist you with what you will be evaluated on.
- Students observing the interview can use the Role Play #2 Coaching Tool to provide feedback to the student once the role playing has been completed.
- Please read the welding inspection scenario and the instructions before you begin the role playing.
- You will have approximately 15 minutes to prepare for the interview.
- **You will have approximately 10 minutes to conduct your interview.**
- Be sure to consult with an instructor, if you have any questions or require additional clarification.

Role Play #2: Applying Interview Techniques

Role Play #2 focuses on these interviewer skills:

1. **Establishing Rapport.** What is rapport? Based on the scenario, the CSHO should select an approach that may assist in establishing and maintaining rapport.
2. **Selecting a Style of Questioning.** Styles of questioning include: open ended, closed ended, direct, indirect, assertive, rhetorical, probing, "why", investigative, exploratory, corrective, strategic, and sequential.
3. **Cross-cultural Sensitivity.** The CSHO should apply sensitivity when communicating with people from different cultures.
4. **Exhibiting Empathy.** The CSHO displays verbal and non-verbal evidence of empathy with the interviewee. The CSHO labels or names the emotion the CSHO thinks is occurring. Naming the emotion may be stated out loud to the interviewee, or the CSHO may choose not to verbalize the emotion he/she sees.
5. **Displaying Active Listening.** The CSHO uses mirroring, reflecting, summarizing, paraphrasing as verbal evidence of active listening. The CSHO exhibits commonly used body language to communicate active listening to the interviewee. (e.g., open posture, eye contact, silence, etc.)
6. **Documenting the Interview.** An important aspect of interviewing is capturing important information and facts to support a citation. The interview can be either documented in writing or using electronic media. Special skills are involved in this process.
7. **Follow-up Actions.** Specific actions may be required following an interview. The actions depend on the circumstances of the inspection.

You will be evaluated on the following skills:

Role Play #2 Coaching Tool		
Name of Interviewer: Name of Interviewee: Coach:		
1. Skill: Establish & Maintain Rapport	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO (interviewer) establish and maintain rapport (build trust and common ground, be sincere).	<i>(Write key words or phrases used by the CSHO here.)</i>	
2. Skill: Style of Questioning	Did CSHO Display the Skill?	Coach Comments
Did the CSHO use the proper style of questioning (e.g., open ended, closed ended, indirect, direct, probing, "Why" questions, etc.)?		

3. Skill: Apply Cross-cultural Sensitivity	Did CSHO Display the Skill? (Y/N)	Coach Comments
a. How did the CSHO overcome any cultural issues that affected communication? b. What did the CSHO do to translate an interview (e.g., call GSA tele-interpreter service)?	<i>(Write key words or phrases used by the CSHO here.)</i>	
4. Skill: Identifying the Emotion	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO identify the emotion? How do you know the CSHO recognized the emotion(s) of the interviewee?		
5. Skill: Exhibiting Empathy	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO use words or phrases that indicated empathy? Did the CSHO display empathy non-verbally? What evidence did you see or hear that the CSHO was being empathetic?		
6. Skill: Active Listening	Did CSHO Display the Skill? (Y/N)	Coach Comments
a. Did the CSHO use mirroring and reflecting? Did the CSHO use encourager and silence? Did the CSHO use paraphrasing and summarizing? b. Did the CSHO use body language to		

communicate active listening (e.g., open posture, leaning towards interviewee, eye contact, nodding of head, etc.)		
7. Skill: Documenting interviewee information and facts	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO inform the interviewee how the interview will be documented? If the CSHO used electronic media, did they ask the interviewee for verbal consent to record the interview? Did the CSHO maintain eye contact? Were follow-up questions asked when appropriate? Was the interviewee information periodically summarized for clarification?		
8. Skill: Determine need for follow-up actions	Did CSHO Display the Skill? (Y/N)	Coach Comments
Did the CSHO effectively determine need for any of the following actions after the interview: • Follow-up interview • Referral to 11(c) investigator • Referral to safety or health CSHO • Region/National Office assistance • Expert assistance (e.g., Salt Lake Technical Center Program Support)		

Ch 5 - Nonverbal Communication

- 5.0 - Chapter Introduction
 - 5.1 - Recognizing Different Forms Of Nonverbal Communication
 - 5.2 - Describing How Body Language Affects Negotiations
 - 5.3 - Describing How The Physical Environment Affects Negotiations
 - 5.4 - Recognizing How Personal Attributes Affect Negotiations
-

5.0 Introduction

Communication Is More Than Verbal. Good negotiators must first be good communicators. Unfortunately, many negotiators think of communication only as oral or written verbal exchanges. But verbal exchanges account for only a fraction of the messages people send and receive. Research has shown that between 70 and 90 percent of the entire communication spectrum is nonverbal. Consequently, you should be aware of the different forms of nonverbal communication that you are likely to encounter during negotiation conferences.

Although we continually send and receive nonverbal messages, most of us are not fully aware of the ways that we communicate nonverbally. Still, if you watch carefully, you will see that most leading professionals (e.g., doctors, lawyers, politicians, corporate chief executive officers, and contract negotiators) are excellent nonverbal communicators. Some people call it charisma. Others call it style. Whatever it is, they have it!

5.1 Recognizing Different Forms Of Nonverbal Communication

Importance of Nonverbal Communication. If you are only aware of a negotiator's verbal message, you will likely miss the major portion of the overall communication. Being aware of both nonverbal and verbal messages will give you an important edge.

- Skills in interpreting nonverbal communications will help you glean useful information from others involved in the negotiation.
- An awareness of nonverbal communication may also prevent you from harming your own negotiation position by inadvertently sending nonverbal signals that disclose confidential information or weaknesses in your position.

Areas of Nonverbal Communication. Nonverbal communications include all forms of communication that are not part of the language that we speak or write. There are many ways that we reveal ourselves nonverbally. This text will concentrate on the three areas of nonverbal communication that will most likely affect contract negotiations:

- Body language (kinesic communication) using facial expressions, body movements, gestures, and posture;
- Physical environment (proxemic communication) using available space, distance from or proximity to other people, and territorial control; and
- Personal attributes such as:
 - Physical appearance (artifactual communication) including all options that communicators use to modify their appearance;
 - Vocal cues (auditory communication); and
 - Touch (tactile communication) particularly the handshake.

Conscious or Subliminal Messages. Nonverbal communications can involve conscious or subliminal messages.

- **Conscious nonverbal communications.**
 - Senders of conscious nonverbal communications are aware that they are sending a message and the general meaning of that message. For example, the individuals extending a hug know that they are embracing someone and that action is normally perceived as indicating affection.
 - Receivers of conscious nonverbal communication are aware that they received the message and the meaning intended by the sender. The receiver of a hug, for example, generally realizes that the message is a sign of friendship.
- **Subliminal nonverbal communications.** Subliminal messages are communicated to the subconscious mind of the receiver. Receivers of subliminal messages are not

consciously aware of the message. However, these messages are important.

- Gut reactions are frequently based upon your subconscious reading of subliminal nonverbal communications.
- Police and military uniforms subliminally communicate the authority of those wearing them.
- Well-dressed executives project success and credibility.
- Poor dress transmits messages of failure and a lack of credibility.
- Although subliminal messages do not create awareness on a conscious level, they still influence the receiver. In fact, subliminal messages are often more powerful than conscious messages. The advertising world is replete with examples of the value of subliminal nonverbal messages.
- Young, beautiful people are often seen in advertisements to communicate the subconscious message that the advertised product is associated with youth and beauty.
- Companies pay large sums of money to have their products appear in movies. While these appearances are not typical product advertisements, the mere association of the product with the movie transmits subliminal messages that will influence viewers.

Voluntary or Involuntary Messages. Conscious and subliminal messages can both be transmitted voluntarily or involuntarily.

- **Involuntary nonverbal communications.** Most nonverbal messages are involuntarily. In fact, many negotiators are not aware that they communicate nonverbally.
 - Body language is one area where the involuntary nature of nonverbal communication is particularly evident. Every day, people unintentionally convey nonverbal signals by their facial expressions, gestures, and body postures. For example, people telling falsehoods often involuntarily send a telltale nonverbal message to listeners by frequently blinking their eyes.
 - Because involuntary nonverbal communications represent unplanned physical responses, this communication form tends to be particularly

revealing and more honest than verbal communication or even conscious nonverbal communication.

- **Voluntary nonverbal communications.** Nonverbal communication can also be controlled by a knowledgeable person.
 - A person who knows that people telling falsehoods often blink their eyes can take special care not to blink when telling a falsehood.
 - A person who knows that a hug indicates friendship can consciously hug his/her worst enemy as trick to put the person off guard or as part of an effort to improve their relationship.

Interpreting Nonverbal Messages. You must interpret nonverbal messages as part of the overall communication system.

- Typically, an individual nonverbal message is difficult to accurately interpret in isolation because most messages have several possible meanings. For example:
 - A yawn might indicate a lack of interest, physical fatigue, or both.
 - Rapid eye blinking might indicate deceit or just poor fitting contact lenses.
- A nonverbal message is easiest to interpret when it is consistent with other communications that you are receiving at the same time. For example, you might be more likely to interpret rapid eye blinking as indicative of dishonesty if the person also avoids eye contact while speaking.
- An inconsistent nonverbal message may be impossible to interpret. However, an apparently negative nonverbal message should raise a red flag indicating that you should look more carefully for related verbal or nonverbal clues. Look for messages that correlate with each other so that you can make a more accurate interpretation.

Cultural Differences. Always consider cultural differences when you send or receive nonverbal messages. A message that has a particular meaning in one society can have a completely different meaning in another society. For example, in the United States we encourage eye contact as an indicator of honesty and interest. People in some other societies believe that they should look down when talking

to another person to indicate deference and respect. For them, direct eye contact might be considered offensive and disrespectful.

5.2 Describing How Body Language Affects Negotiations

Body Language and Attitudes. Body language research has catalogued 135 distinct gestures and expressions of the face, head, and body. Eighty of these expressions were face and head gestures, including nine different ways of smiling.

These gestures and expressions provide insight into the attitude of the originator. Simultaneous physical signals often reinforce each other and reduce the ambiguity surrounding the message. For example, eagerness is often exhibited with the simultaneous physical displays of excessive smiling along with frequent nodding of the head.

Common attitudes communicated nonverbally during negotiations can be grouped into two broad classifications -- positive attitudes and negative attitudes.

Example of Positive and Negative Attitudes.



Which team shows a win/win attitude?

The illustration above depicts the body language demonstrated by two negotiation teams. The nonverbal messages provided by their body postures, facial gestures, and appearance provide substantial information about both teams. Note that the team on the:

- Right transmits nonverbal messages exuding confidence and success.
- Left transmits nonverbal messages that convey negative attitudes and other unflattering characteristics.

Positive Attitudes. Positive attitudes indicated by body language may signal a sincere effort to achieve win/win results. Key indicators of positive attitudes are listed below.

- Speakers indicate respect and honesty by keeping their eyes focused on the eyes of the listener(s).
- Confidence is often exhibited by:
 - Hands in pockets with thumbs out;
 - Hands on lapel of coat;
 - Steepled fingers or hands;
 - Good body posture (e.g., square shoulders and a straight back); or
 - Hands on hips.
- Interest may be exhibited by one or more of the following:
 - Tilted head toward speaker;
 - Sitting on edge of chair;
 - Upper body leaning in sprinter's position; or
 - Eyes focused on speaker.
- Careful evaluation of what is being said is frequently indicated by one or more of the following:
 - Peering out over eyeglasses;
 - Chin cupped between thumb and fingers;
 - Putting hands to bridge of nose; or
 - Stroking chin.
- Eagerness is often demonstrated by:
 - Rubbing hands together;
 - Smiling excessively; or
 - Frequent nodding of the head.

Negative Attitudes. Negative attitudes indicated by body language may signal a deceitful nature or a win/lose

approach to negotiation. Common indicators of negative attitudes are listed below.

- Deception or dishonesty is often demonstrated by:
 - Frequent eye blinking;
 - Hand covering mouth while speaking;
 - Frequent coughing;
 - Looking away while speaking; or
 - Quick sideways glances.
- Defensiveness may be indicated by the following:
 - Arms crossed high on chest;
 - Crossed legs; or
 - Pointing an index finger at another person.
- Insecurity is often exhibited by:
 - Hands completely in pocket;
 - Constant fidgeting;
 - Chewing on a pencil;
 - Frequent coughing;
 - Biting fingernails; or
 - Hand wringing.
- Frustration is frequently shown by:
 - Tightness of a person's jaw;
 - Rubbing back of neck; or
 - Drawing eyebrows together.
- Listener boredom or indifference is generally indicated by:
 - Eyes not focused at speaker or looking elsewhere;
 - Head in hand;
 - Sloppy or informal body posture; or
 - Preoccupation with something else.

Gestures. Be particularly careful when interpreting or using gestures. A gesture that means one thing in one society can mean something completely different in another. There is a good chance that you will encounter differing interpretations whenever you are negotiating with someone from another part of the world. Even if the other party is from the United States, some of these differing interpretations may remain as part of the person's heritage.

- Shaking your head up-and-down means "yes" in the United States and left-to-right means "no." In some parts of the world the meanings are just the opposite.
- The hand signal for O.K. in the United States is an obscene gesture in some societies.

- The thumbs-up gesture is a positive sign in most of the world, but in some cultures it is considered a rude gesture.
- The V-shaped hand gesture with the index finger and middle finger may mean victory or peace in the United States, but in some countries it could be interpreted as an obscene gesture.

Body Language Application. In contract negotiation, you can use a knowledge of body language in several ways:

- As you prepare for the negotiation conference, you should briefly review key elements of body language with members of the Government team.
 - Exhibiting positive attitudes will make them more believable as they present support for the Government position.
 - Exhibiting negative attitudes will bring their support into question and may raise questions about the entire Government position.
 - A questioning look by a team member as you make a statement may bring your credibility into question.
 - A lack of interest exhibited by a team member may convince the contractor's negotiator that the issue being addressed is not important to the Government.
- During the negotiation conference, you can use your knowledge of body language in several ways. You can:
 - Gain greater insight into the attitude of the contractor's negotiator.
 - Do not take one element of body language and make grand assumptions. Remember that:
 - Similar types of body language can have substantially different meanings.
 - Body language can be controlled by a knowledgeable negotiator.
 - Look for confirming communications either verbal or nonverbal.
 - Concentrate on using body language that supports your verbal communications (e.g., eye contact will support your truthfulness).
 - Unless you are very good, you will not be able to completely suppress your natural body language.
 - However, unless your natural body language indicates a negative attitude, your use of

positive body language should strongly support your position.

- o Consider body language as you listen to the positions taken by other Government team members.
- o If they appear uncertain, you might interject support.
- o If they appear negative, you might ask for a brief caucus to remind them of the importance of positive body language.

5.3 Describing How The Physical Environment Affects Negotiations

Physical Environment. The physical environment transmits nonverbal messages that can be extremely important to negotiators. Key elements of the environment include:

- The negotiation conference facility;
- Conference table configuration, size, and seating arrangements;
- Physical distance between negotiators;
- Relative elevation of the negotiators; and
- Visual aids.

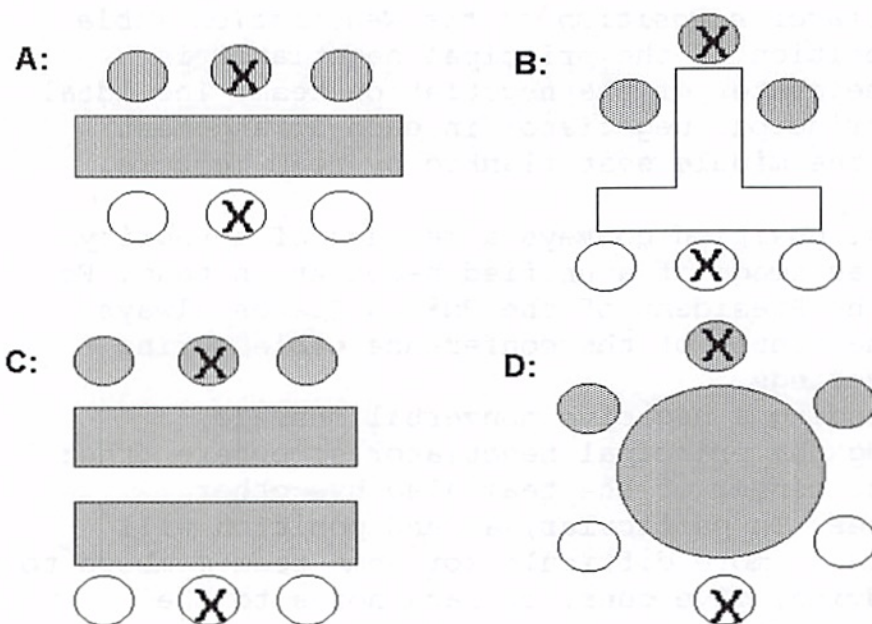
Negotiation Conference Facility. Your negotiation conference facility says volumes about you, your organization, and the importance of the negotiation.

- Messages are sent by the entire facility not just the conference room. A dirty or substandard rest room might actually send a stronger message about your organization than a substandard conference room.
- Negotiators will react to subliminal messages related to the negotiation facility even though they may not realize that the messages exist.
 - o Superior negotiation facilities convey positive messages about the host and the importance of the negotiation. These messages may increase the self-assurance of the host and lower the confidence of the guest negotiators.
 - o Substandard negotiation facilities convey unflattering nonverbal messages. These unflattering messages may lower the confidence of the host team while increasing the self-assurance of the guest negotiators.

- Negotiators' reactions may be affected by plush carpet or expensive furniture but they are affected more by physical comfort.
 - An older or less attractive Government facility may provide positive results as long as it offers sufficient comfort for everyone involved. That includes:
 - Adequate furnishings, lighting, and space for everyone involved; and
 - A comfortable room temperature.
 - Physical discomfort will likely negatively affect the attitudes of people already under pressure. It may particularly affect the attitude of the guest team, if they perceive the discomfort as a win/lose tactic by the host.

Negotiation Table Configuration. Although there is no standard table configuration for every negotiation conference, the table arrangement transmits important conscious and subliminal messages. Those messages are so important that the negotiations to end the Vietnam War were delayed for almost a year while the parties involved negotiated the shape of the negotiation table.

- The best table arrangement for any negotiation depends on the situation. However, win/win negotiation attitudes can be promoted with table configurations that convey trust. In contrast, win/lose attitudes are created by table settings that communicate disparity or mistrust between the two parties.
- Each negotiation table configuration below conveys a different message.



-
- o Arrangement A is a typical configuration for contract negotiations. The two parties sit together to indicate and foster unity. Each team is on a different side of the table and the teams are facing each other so each team member can clearly hear what anyone on the other team has to say.
 - o Arrangement B may tend to give one party an advantage over the other because the arrangement suggests only one important person, the person at the end of the vertical extension.
 - o Arrangement C shows a need for space between the two parties. That space could mean more formality or less trust.
 - o Arrangement D may be the most conducive to win/win negotiations because the round shape is usually associated with equality.

Negotiation Table Size. The conference table(s) should be large enough to comfortably seat participants from both teams with adequate space for their work papers, reference material, and briefcases. Depending upon the complexity of and probable length of the negotiation, more chairs may be needed if specialists or observers are added to the group. However, any additional furniture should be positioned so as not to interfere with the action at the negotiation table.

Principal Negotiator's Position at the Negotiation Table.

The physical position of the principal negotiator is generally at the center of the negotiation team. The ideal place for the principal negotiator in each arrangement shown above is the middle seat flanked by team members.

- The central position conveys a message of authority and sends an image of a unified negotiation team. For example, the President of the United States always sits at the center of the conference table during Cabinet meetings.
- Besides sending a negative nonverbal message, positioning the principal negotiator somewhere other than at the center of the team also has other consequences. In particular, an end position will likely make it more difficult for some team members to whisper advice, give cues, or pass notes to the principal negotiator.

Physical Distance Between Negotiators. People in different cultures require different amounts of physical distance for communication. Too little or too much space between people can have a negative effect. In the United States, most people:

- Reserve the space closer than 1.5 feet for intimate communication. A negotiator may be annoyed and nervous if you attempt to conduct any significant communication from any distance closer than 1.5 feet.
- Allow a distance of 1.5 to 4.0 feet for close interpersonal contact. A negotiator will likely become increasingly annoyed and nervous as you move closer.
- Allow a distance of 4.0 to 12.0 feet for most business transactions or consultations. Note that four feet is about the distance across the typical conference table.
- Communicate only briefly or formally at a distance beyond 12.0 feet.

Relative Elevation of the Negotiators. The phrase "I look up to ..." indicates respect. You need to be aware that this phrase is more than just a cliché.

In fact, most people in the United States are conditioned early in life to defer to people on a higher physical level and that training continues throughout their lives. Teachers stand while students sit. Judges preside

from raised platforms. Political leaders address supporters from raised stages.

Some negotiators attempt to take advantage of this conditioning by raising themselves above the other negotiator. Some make key points while standing or walking around as the other negotiator sits. Others have gone so far as to raise the chairs for their team to a level higher than those for the other team.

Do not allow another negotiator to intimidate you by physically talking down to you. If necessary, stand yourself or ask the other negotiator to sit down.

Visual Aids. Assure that adequate visual aids are available to support both negotiating teams. Marker boards and chalkboards are practically a standard requirement. Visual aids may also include overhead projectors or videocassette recorders with televisions.

Marker boards and chalkboards are excellent for summarizing the negotiation agenda, issues, and agreements. However, you need to remember that the person who is writing on the board has the power of the marker. By controlling what is written, that person can modify the agenda, define key issues, or draft agreements. That power can substantially affect negotiation progress and results.

5.4 Recognizing How Personal Attributes Affect Negotiations

Personal Physical Appearance. You need be aware of the effect that your physical appearance may have on nonverbal communication. Awareness may permit you to build on your natural advantages. However, awareness of any natural disadvantage may be even more important.

Research has found that:

- Physical attractiveness affects the way you perceive yourself and the way other perceive you. Attractive people:
 - Are better liked, get better jobs, and have more self-esteem and social power than unattractive people.

- Receive preferential treatment in the initiation and development of interpersonal relationships.
- Height affects perceptions:
 - Taller men and women are normally perceived as more dominant than shorter men and women.
 - Tall females are perceived as even more dominant and smarter when they are with short males.
- Body type affects perceptions
 - Athletic looking people are normally perceived as more assertive and self-reliant than people with other body types.
 - Heavier less athletic looking people are normally perceived as more lazy, sympathetic, and dependent than people with other body types.
 - Skinny fragile looking people are normally perceived as more suspicious, nervous, and pessimistic than people with other body types.

Personal Dress. The importance of how we dress is highlighted by the cliché, "Dress for success." Clothing has been found to affect perceptions of credibility, likability, attractiveness, and dominance, but researchers agree that clothing has the most potent affect on credibility.

Unfortunately, many otherwise good negotiators ignore the importance of personal dress during negotiations, and that ignorance negatively affects their ability to attain mutually satisfactory negotiation results.

- Make sure that your clothing is appropriate for the negotiation situation.
 - Normally, you should dress for negotiations as you would for a promotion or job interview. This type of dress emphasizes your credibility and professionalism.
 - Casual days are growing in popularity. On such days, more casual dress may be appropriate. If you adopt more casual dress, always:
 - Advise the contractor of your intent to adopt a more casual atmosphere.
 - Remember that more casual dress will reduce the nonverbal emphasis on your credibility and professionalism.
 - Clothing such as jeans is never appropriate unless you are negotiating on a construction site or similar area.

- If you wear a uniform, wear it properly.
 - In general, people in uniform are perceived to have more power than the same people out of uniform.
 - Failing to wear a uniform properly may be perceived as showing disrespect for yourself, your organization, and the other negotiator.

General Personal Grooming. General grooming, especially poor grooming, can have a profound affect on how you are perceived by others. Do not allow poor personal grooming (e.g., uncombed hair or an unshaven look) to detract from your appearance and communicate unfavorable nonverbal messages about you or your negotiation position. Remember, that if you look good, you will generally:

- Feel better;
- Perform better; and
- Be perceived better by others.

Vocal Cues. The nonverbal messages communicated by the sound of the human voice, can provide valuable information during negotiations. There are eight attributes of speech that provide especially important vocal cues that you should consider during negotiation:

- **Loudness.** Without enough loudness you cannot be heard. However shouting or a harsh sounding voice may be perceived as disruptive or insulting. Many times, lowering your voice almost to a whisper will help you make a point better than shouting.
- **Pitch.** Most factual communication includes moderate changes in the pitch of your voice. A monotone involves little or no change and may be perceived as indicating apathy or boredom. A high pitched voice may be perceived as indicating excitement. A low pitched voice may be perceived as indicating anger.
- **Rate.** A slow rate of speech may frustrate the listener. An increasing rate may be perceived as the result of increasing intensity. A fast rate may be perceived as an indicator of nervousness and it may also be difficult to understand.
- **Quality.** This is the characteristic that permits you to differentiate one voice from another.
- **Regularity.** The regular or rhythmic voice pattern will normally make you sound more confident or authoritative. Irregular speech might be perceived as

more thoughtful or uncertain depending on your words and other nonverbal messages.

- **Articulation.** Speaking each word clearly makes you easier to understand.
- **Pronunciation.** To be understood, you must also use the correct sounds and emphasis in pronouncing each word. Mispronouncing a word might be perceived as indicator of ignorance or incompetence.
- **Silence.** The absence of sound can also send a strong message. Silence gives you an opportunity to listen. You can obtain useful information from the contractor's team by listening to what they say and how they say it.

Handshake Cues. Most negotiations begin and end with a handshake and every time the physical clasp of hands provides subliminal nonverbal message(s) to the parties involved. These messages can have a significant effect on their perceptions or each other.

- Use your initial handshake to convey a positive first impression.
 - Signal positive attributes through your grip.
 - A firm handshake or executive grip conveys positive attributes (e.g., power, confidence, and sincerity).
 - A loose handshake may send unflattering messages (e.g., weakness and insecurity). Some people even feel insulted when someone uses a loose grip or just grasps their fingertips.
 - A vice-like grip rarely sends a positive message. It may be perceived as an attempt at intimidation. It may cause real pain. Either way, it is not conducive to initiating a win-win negotiation.
 - Support your grip with other consistent nonverbal messages.
 - Smile and look the other person straight in the eye to signal honesty and friendliness.
 - Slight up and down movement emphasizes the strength of the relationship. However, you should never forcefully shake the other person's hand up and down like an old water pump. That is normally considered excessive. It can also be painful.
- Use a handshake after agreement to symbolically seal the agreement and set the stage for a positive continuing relationship.

- Consider emphasizing the warmth and importance of your continued relationship by:
- Briefly prolonging the handshake;
- Grasping the person's hand between both your hands; or
- Grasping the forearm, elbow, or even the upper arm of the other party as you shake hands.
- Use a smile and positive words to dispel any tensions that may have built up during negotiations.
- Failing to offer a handshake could seriously damage any hope for positive continuing relationship.

Handshake Differences. Be careful as you interpret handshake cues. As with other nonverbal messages, you should consider the possible effect of cultural differences.

- In some Middle Eastern and Asian cultures, a gentle grip is preferred over the executive grip.
- In some Asian cultures, direct eye contact during the handshake is discouraged.
- In Islamic cultures, men never offer to shake hands with women. Touching between unrelated men and women is forbidden.
- In the United States, some women extend their hand with the palm down preferring to only grasp fingers rather than use the executive grip. However, most business women prefer the executive grip when shaking hands with men or women, and many are offended when someone only grasps their fingers.



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: CPL 02-00-153

EFFECTIVE DATE: April 17, 2012

SUBJECT: Communicating OSHA Fatality Inspection Procedures to a Victim's Family

Purpose: This Instruction provides guidance to ensure the Occupational Safety and Health Administration (OSHA) communicates its fatality inspection procedures to the victim's family and facilitates the exchange of information throughout the inspection and settlement process.

Scope: This Instruction applies OSHA-wide.

References: See paragraph IV.

Cancellations: None.

State Impact: Notice of intent and equivalency required; see paragraph V.

Action Offices: National, Regional, Area, State Plan and Consultation Offices.

Originating Office: Directorate of Enforcement Programs.

Contact: Directorate of Enforcement Programs
Office of General Industry Enforcement
200 Constitution Avenue, NW, N3119
Washington, DC 20210
(202-693-1850)

By and Under the Authority of

David Michaels, PhD, MPH
Assistant Secretary

Executive Summary

This Instruction outlines OSHA's commitment to communicating with a victim's family, or a designated representative, throughout the fatality inspection process. This initiative will keep the family informed of the status of the inspection, preliminary findings, any proposed citations, and settlement and closure of the case.

Significant Changes

This is a new Instruction.

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I. Purpose.

This Instruction provides guidance to ensure OSHA communicates its fatality inspection procedures to the victim's family and facilitates the exchange of information throughout the entire inspection process.

II. Scope.

This applies OSHA-wide.

III. Cancellations.

None.

IV. References.

- A. CPL 02-00-064, Implementation of a Construction Fatality Information Dissemination System, June 5, 1985.
- B. STP 01-01-029, Final Rule on Reporting of Fatality or Multiple Hospitalization Incidents, June 7, 1994.
- C. CPL 02-00-150, Field Operations Manual (FOM), April 22, 2011.
- D. TED 01-00-018, Initial Training Program for OSHA Compliance Personnel, August 6, 2008.
- E. Fatality Investigation Procedures, Regional Instruction, Region VII, May 28, 2010.
- F. OTI Webinar #0032: Best Practices for Interacting with Victim's Families, September 27, 2010.

V. Federal Program Change.

Federal Program Change, Notice of Intent Required, Adoption Encouraged. This Instruction describes a Federal program change which provides guidance and a three-phased approach for communicating with family members of victims of workplace accidents throughout the investigation of the accident and settlement process. States are strongly encouraged to adopt this Instruction and should utilize it in an "at least as effective" manner to communicate with the victim's family members.

States must submit a notice of intent indicating if the State has or will adopt policies and procedures for communicating with family members of victims of workplace accidents and if so, whether the State's policies and procedures are or

will be identical to or different from the Federal program. OSHA will post summary information on the State responses to this Instruction on its website.

VI. Background.

This Instruction provides guidance for communication with the next of kin following a workplace fatality. OSHA places a high priority on fatality inspections, which demand a high degree of sensitivity and investigative accuracy. Only trained and experienced OSHA representatives should be assigned to interact with families of the deceased.

VII. Definitions.

- A. Fatality. A worker death resulting from a work-related incident or exposure; in general, from an accident or an illness caused by or related to a workplace hazard.
- B. Next of Kin. Individual(s), often a family member, listed as the emergency contact(s) on the victim's employment records; another person identified by the employer if an emergency contact is not identified on the employment records or no such record exist; or a representative designated by the next of kin.

VIII. Training.

OSHA compliance officers attend several OSHA Training Institute courses relevant to fatality inspections. OSHA personnel involved in fatality inspections and in communicating with the next of kin must complete training in accordance with TED 01-00-018, Initial Training Program for OSHA Compliance Personnel, in addition to receiving on-the-job field training under the guidance of a supervisor and/or an experienced compliance officer.

IX. Communications with the Next of Kin.

OSHA places a high priority on communicating with families after a workplace fatality. Care must be taken to ensure sensitivity and tact are exercised during all communications. Interactions with the next of kin can typically be accomplished by using a "three- phase approach" which includes: an initial communication; follow-up communications throughout the inspection; and post-inspection communications. This will ensure that OSHA receives the necessary information about the victim, job history, co-workers, and keeps the next of kin informed from the beginning of the inspection and through the progression of the inspection until the case is either closed or becomes a final order of the Occupational Safety and Health Review Commission.

NOTE: Where OSHA is not able to identify the victim's next of kin, all attempts shall be fully documented in the case file.

If the victim's next of kin do not want to speak with OSHA, their wishes should be respected. However, the OSHA representative should notify his/her supervisor of the next of kin's wishes, make a notation in the case file, and ensure that all procedures of CPL 02-00-150, Field Operations Manual, Chapter 11, Section G, Family of Victims are followed. The OSHA representative should provide the next of kin with his/her point of contact information, including the Area Office's telephone number, address and an e-mail address. The next of kin should be instructed to contact the OSHA representative with any questions regarding the inspection.

A. Initial Communication.

Prior to any initial communication, OSHA should verify through interviews with the employer and/or local authorities, that the next of kin has been previously notified of the fatality. OSHA should attempt to contact the family via telephone prior to the initial notification letter being mailed. After the initial communication, OSHA will then contact the next of kin to request work-related information concerning the fatality and encourage the next of kin to contact OSHA with any additional information.

1. The OSHA representative should ensure the following is explained during the initial communication with the next of kin:
 - a. OSHA inspects the worksite(s) where fatalities have occurred to determine whether a violation of OSHA safety and health standards has occurred and what effect the alleged violation had on the accident.
 - b. These inspections are often comprehensive in nature, but at times are limited to safety and health hazards that may be associated with the fatality. The inspection may take up to six months to complete.
 - c. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil or criminal penalties against the employer. OSHA does not issue citations or seek civil penalties solely because there was a workplace fatality.
 - d. OSHA is barred from releasing certain information as a result of the applicability of legal privileges. OSHA will explain that the releasable portions of the case file will not be made available to the next of kin until after the employer contest period has passed or no contest has been filed. In situations where the case is contested, the case file will not be made

available until after litigation is concluded. If a criminal referral is under consideration or has been made, the case file cannot be released until those actions are complete.

- e. Upon issuance of a Occupational Safety and Health Review Commission (OSHRC) final order, the next of kin will be afforded the opportunity to discuss the case with the Area Director.
- f. At any time during the inspection and throughout the inspection process, the next of kin may contact the local OSHA office to inquire about the status of the case or to ask questions.

- 2. OSHA will contact the next of kin early in the inspection process. This gives the OSHA representative the opportunity to establish a trusting and working relationship with the next of kin and communicate that the incident is being investigated. Care must be taken to ensure sensitivity and tact are exercised during all communications.

NOTE: During the initial communication with the next of kin, OSHA must determine if it is the appropriate time to explain OSHA's fatality inspection process. If it is not the appropriate time, OSHA will inquire if there might be a better time to talk and provide the next of kin with point of contact information, while briefly explaining the nature of future communications with the agency.

- 3. After receiving next of kin information, initial communication with the next of kin should normally occur within five working days. OSHA should explain the investigative process of the fatality inspection and ensure that the next of kin understands the role of OSHA as noted in Paragraph (A)(1) above. OSHA should also explain the role of each party below:

- a. Law Enforcement.

Generally, first responders such as local police and fire personnel arrive at the incident scene within minutes of the event. If local law enforcement determines that foul play did not contribute to the incident, they will release jurisdiction of the site to OSHA for inspection. Law enforcement and OSHA inspections are conducted independently. OSHA will determine whether any workplace health and safety laws were violated, while the police consider possible criminal matters.

b. Coroner.

Coroners identify possible causal factors related to some workplace fatalities. The coroner's report is also independent of OSHA's inspection. In some cases, OSHA will obtain information from the coroner as part of the inspection.

4. The Area Director condolence letter (Appendix A), as per CPL 02-00-150, Field Operations Manual, Chapter 11, Section G, Family of Victims, will be sent within five working days after contact with the next of kin. In addition to the Area Director condolence letter, the Assistant Secretary sends a condolence letter to next of kin (Appendix B).
5. The Area Office should email the Assistant Secretary's condolence letter to the Directorate of Enforcement Programs. In addition to the letter, there should be a sufficient explanation of the events leading to the fatality. Where there are discrepancies, erroneous and/or missing information, the appropriate Regional Office will be contacted for clarification. After signature, the letter is mailed by the National Office to the next of kin and a copy forwarded to the appropriate Area Office.

NOTE: In some circumstances, it may not be appropriate to follow these procedures (e.g., in the case of a small business, the owner or supervisor may be a relative of the victim). The form letter should be modified to take any special circumstance into account or a form letter should not be sent. If a letter is not sent, explain the rationale in the case file.

6. All communication with the next of kin, including the Area Director and Assistant Secretary condolence letters, will be noted in the case file.

B. Follow-up Communications.

Follow-up communications are vital to the exchange of information. These communications allow OSHA to provide updates on the status of the inspection and provide the next of kin with an opportunity to ask questions. However, OSHA may not divulge any privileged information (such as the name of potential witnesses) during the course of these discussions. This exchange should occur periodically until the inspection is completed and findings are communicated to the next of kin.

OSHA's commitment to exchange information with the next of kin shall be as follows:

1. Updated information to the next of kin should continue on a periodic basis; for example, once every 30 days or at a time agreed to between the OSHA representative and the next of kin.
2. OSHA will explain various aspects of the inspection, including the inspection findings letter (Appendix C or Appendix D), OSHA citations and penalties, the informal conference process, and Freedom of Information Act (FOIA) issues.
3. All communications will be noted in the case file.

NOTE: If the next of kin opts out of the exchange of information, initially or during the inspection, the OSHA representative must respect the decision, notify their supervisor, and inform the next of kin that he/she may inquire about the status of the case at a later date, if desired.

C. Post-Inspection Communications.

After the inspection, OSHA will make every effort to contact the next of kin via telephone to explain findings, address any questions and give the family an opportunity to provide input. Depending on the case, OSHA may issue a press release. If a press release is planned, OSHA will make every attempt to notify the family by telephone before the information is released to the public. OSHA will also provide a copy of the press release to the family.

1. No Proposed Citations.

If citations are not issued, the OSHA representative should explain the findings of the inspection during the post-inspection communication. Additionally, the OSHA representative should be prepared to discuss and explain the following:

- a. OSHA does not issue citations solely because there was a workplace fatality.
- b. OSHA inspected the worksite(s) to determine whether a violation of OSHA safety and health standards had occurred. The workplace inspection found no alleged violation(s) of safety and health standards and, as a result, no citations were issued to the employer.
- c. OSHA should make the next of kin aware of the Freedom of Information Act (FOIA), as it pertains to OSHA's inspection file.

- d. Within five days of closing the case, the case closure letter should be sent to the next of kin (Appendix C).
- e. All communications will be noted in the case file.

2. Proposed Citations.

After confirmation that the employer has received the citations, OSHA should begin post-inspection communications with the next of kin to explain the alleged violation(s), proposed penalties, any reduction factors, violation classification, abatement requirements, settlement procedures, and Freedom of Information Act (FOIA) requests, as it pertains to OSHA's inspection. OSHA should explain that communications between OSHA and the next of kin will continue until the case becomes a final order of the OSHRC. Periodic communications with the next of kin should reflect a time agreed to between the OSHA representative and the next of kin.

NOTE: OSHA should emphasize that although civil penalties were proposed, penalties under the OSH Act are not based on the occurrence of a fatality. Instead, the gravity of the violation, which factors in severity of injury and probability of occurrence, is one of several considerations in penalty calculation.

- a. Upon confirmation that the employer received the citation(s), OSHA should ensure that the inspection findings letter (Appendix D) with a copy of the citation(s), OSHA Citations and Penalties fact sheet, and the OSHA Fatality inspection fact sheet are sent to the next of kin.
 - b. OSHA will explain that the releasable portions of the case file will not be made available to the next of kin until after the employer contest period has passed or no contest has been filed. In situations where the case is contested, the case file will not be made available until after litigation is completed. If a criminal referral is under consideration or has been made, the case file cannot be released until those actions are complete.
 - c. All communications with the next of kin should be noted in the case file.
3. Upon receipt of a final order resulting from a signed informal settlement agreement or a formal settlement agreement, OSHA should inform the next of kin of the settlement and explain the outcome. Issues associated with the settlement agreement or OSHRC decision (i.e., amended abatement dates, reclassification

of violations, and the modification or withdrawal of a penalty, a citation, or a citation item) may be discussed. Finally, OSHA should again make the next of kin aware of the Freedom of Information Act (FOIA), as it pertains to OSHA's inspection.

- a. Within five days of a final order closing the case, the case closure letter should be sent to the next of kin (Appendix E).
- b. All communications with the next of kin should be noted in the case file.

APPENDIX A

AREA DIRECTOR CONDOLENCE LETTER

Dear _____:

Please accept our sincerest sympathy in the tragic death of [victim's name]. We deeply regret the loss of your [husband's, mother's, friend's, son's, etc.] life.

We want you to know that the Occupational Safety and Health Administration (OSHA) is investigating the circumstances surrounding Mr./Ms. _____'s death. We will share our findings when our inspection is complete, which may take up to six months.

Enclosed is some information about OSHA fatality inspections. If you believe you or another family member or friend may have information concerning your [husband's, mother's, friend's, son's, etc.] death, please contact us so that we can discuss this with you.

If you have any questions about our inspection or any of the information enclosed, please contact me:

Area Director
USDOL/OSHA
Street Address
City, State Zip Code

Telephone: _____
E-Mail: _____@dol.gov

Again, please accept our heartfelt condolences and let us know if we can be of any assistance to you, your family or friends.

Sincerely,

Area Director

Enclosures

(Enclosure)

OSHA CITATIONS AND PENALTIES

OSHA citations state the specific safety and health standards the company is alleged to have violated. They note, both by number and name, the individual sections of OSHA standards that the employer allegedly failed to follow. (A complete listing of OSHA standards is available for review at the OSHA area office or can be accessed on the agency's Internet site at www.osha.gov under "Standards.")

Citations specify the location in the plant or on the site where the violation occurred and the circumstances surrounding the violation. The Area Director of the local OSHA office that conducted the inspection signs and issues the citations. Citations must be issued within six months following identification of the violations. Even if they disagree with the findings, employers must post a copy of each citation at or near the place where an alleged violation occurred for three days or until the violation is abated, whichever is longer.

Citations identify required abatement dates (the dates when the hazards must be corrected) and proposed penalties for each alleged violation. For violations that are easy to fix, immediate abatement may be appropriate. If an employer must purchase equipment or significantly modify the workplace, a longer period is permitted.

Proposed penalties may range as high as \$70,000 for a willful violation or \$7,000 for a serious violation. These amounts were set into law by Congress in 1991. Other-than-serious violations may carry penalties or there may be no penalty proposed for these violations. OSHA proposes citations when a standard has been violated. The amount of each proposed citation can be adjusted based on the employer size, good faith on the part of the employer (those implementing the safety and health program), and inspection history.

Violations are classified as willful if OSHA has evidence that the employer intentionally disregarded the requirements of the Occupational Safety and Health Act of 1970 (OSH Act) and/or was plainly indifferent to the safety of employees. Violations are identified as serious if there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm, is classified as other-than-serious. Violations may also be characterized as repeat if OSHA has cited the company for a substantially similar hazard within the past five years.

OSHA proposes penalties as a result of violations, but does not actually have the authority to impose fines. That authority is granted by law to the Occupational Safety and Health Review Commission (OSHRC), an administrative review board that is completely separate from OSHA and the U.S. Department of Labor. Employers can contest (challenge) alleged violations, proposed penalties or abatement dates before this board. If the employer decides to challenge any part of OSHA's findings, they must do so within 15 working days after the employer receives the citations.

Employers may request a meeting with OSHA to discuss the issued citations and possibly to enter into an informal settlement of the case. This may involve reductions in penalties in exchange for promptly correcting violations. OSHA's primary concern remains prevention of injuries, illnesses and deaths rather than collection of funds. (All penalty monies go directly to the U.S. Treasury; they are not part of OSHA's budget or credited to the agency.)

If an employer acknowledges the violations and agrees to pay the proposed penalties, then the citations as issued or amended automatically become a final order of OSHRC. The employer pays the penalties and the case is closed. The employer may also contest a part of a citation and pay part of the penalties assessed, or contest the entire case. Contested cases proceed through an administrative review process at the OSHRC. The employer or OSHA may further appeal the case in the appropriate U.S. Court of Appeals, if dissatisfied with the OSHRC's decision.

When an employer is charged with a willful violation of an OSHA standard and that alleged violation results in the death of an employee, OSHA may ask the U. S. Department of Justice to seek criminal prosecution of the employer. These are difficult cases to prove and few cases reach court and convictions are rare. However, should an employer be convicted, he or she could face a fine of up to \$250,000 individually and/or a jail term of up to six months. A corporation could receive a fine of as much as \$500,000.

(Enclosure)

OSHA FATALITY INSPECTIONS

Congress enacted the Occupational Safety and Health Act of 1970 (OSH Act) to assure safe and healthful working conditions for working men and women. The Occupational Safety and Health Administration (OSHA) was established under the OSH Act to provide for the enforcement of standards developed under the Act. There are both Federal and State OSHA programs.

OSHA inspects the worksites where fatalities have occurred to determine whether a violation of OSHA safety and health standards occurred. These inspections are often comprehensive in nature, but at times may be limited to the area in which the fatality occurred. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil penalties against the employer, and may also refer the case to the U.S. Department of Justice for possible criminal prosecution.

OSHA does not issue citations solely because there was a workplace fatality. However, if during any inspection, OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil or criminal penalties against the employer.

Upon written request, OSHA can release the portions of the inspection file normally available to release under the Freedom of Information Act (FOIA) and this information will be provided to next of kin, **without charge**. In an effort to keep the next of kin apprised of developments during an inspection, OSHA sends them copies of citations (the formal notice of alleged hazards in the workplace), appeal letters (the employer's notice of disagreement with the issued citations), and informal settlements (a binding agreement between OSHA and the employer to settle the case) as soon as the document is issued. Furthermore, OSHA is committed to the exchange of information with the next of kin as follows:

- Any time during the inspection or the resulting litigation, the next of kin may contact the local OSHA office to inquire about the status of the case or to ask questions.
- If the next of kin has information or evidence that can assist in the inspection, they are encouraged to take a proactive role and share this information by writing, calling or e-mailing the local OSHA office.
- The next of kin is encouraged to follow up and inquire about any information they have sent to OSHA or on information received from OSHA. In such cases, they are free to write or call the local OSHA office.
- Upon issuance of the final order, the next of kin will be afforded the opportunity to meet with Area Director to answer questions and explain the settlement decision.
- OSHA will notify the next of kin when the case is closed. At that time, the portions of the file that can be released under FOIA will be made available to family members, at no charge, upon written request.

APPENDIX B

ASSISTANT SECRETARY CONDOLENCE LETTER

Dear Mr./Ms./Mrs. Last Name:

Please accept my heartfelt condolences on the tragic death of your **[describe relationship: husband, wife, child, etc.]**, **[victim First Name Last Name]**. We deeply regret the loss of his/her life.

Please be assured that the Occupational Safety and Health Administration (OSHA) is investigating the circumstances surrounding **[Mr./Ms./Mrs. Last Name's]** death. We realize that the results of this inspection are very important to you, so we will share our findings as soon as the inspection is completed.

We are committed to preventing injuries and illnesses on the job. Given our mission of providing safer workplaces, we understand that each worker's death is a personal loss and tragedy.

Since your **[husband's/wife's/child's etc.]** death occurred in **[State]**, which is part of OSHA's Region #, our investigators from the region will be handling the inspection. If you have any questions about the inspection (ref: OSHA Inspection No. #####), or any information you think might be helpful, please do not hesitate to contact **[First Name Last Name]**, Area Director, at the following address:

USDOL/OSHA
Street Address
City, State ZIP
Phone: (XXX) XXX-XXXX
Fax: (XXX) XXX-XXXX
E-Mail: _____@dol.gov

Again, please accept my sincere sympathy and regret for your loss. If OSHA can be of any assistance to you, your family, or friends, please do not hesitate to contact us.

Sincerely,

Assistant Secretary

APPENDIX C

INSPECTION FINDINGS AND NEXT OF KIN CLOSURE LETTER – NO PROPOSED CITATIONS

Dear _____:

We are writing to share with you the findings of the recent Occupational Safety and Health Administration (OSHA) inspection into the death of your [husband, mother, son, etc.].

[Insert one or two sentences on the workplace hazard(s) that may have contributed to accident or death if possible. For example, "OSHA's inspection determined that the trench Mr. Jones was working in was not properly sloped or shored and no cave-in protection such as a trench box was provided. Rain on the day of the accident and heavy equipment operating nearby increased the risk of cave-in."]

OSHA inspects the worksites where these tragedies have occurred to determine whether a violation of OSHA safety and health standards occurred. These inspections are often comprehensive in nature, but at times are limited to the area in which the fatality occurred. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil penalties against the employer, and may also refer the case to the United State Department of Justice for possible criminal prosecution. However, OSHA does not issue citations solely because there was a workplace fatality.

OSHA inspected the worksite(s) of [name of company] to determine whether a violation of OSHA safety and health standards related to the accident had occurred. The workplace inspection found that no alleged violation(s) of safety and health standards had occurred related to the accident, and therefore, no citations or proposed penalties were issued to the employer.

Despite the inspection indicating that the employer did not violate safety and health standards, we know that no amount of money or compensation can measure the loss you and your family have suffered and your lives have been changed forever because of this tragedy. I would like to express to you my deepest sympathy.

If you have any questions about our inspection please contact me:

Area Director
USDOL/OSHA
Street Address
City, State ZIP

Telephone: _____
E-Mail: _____@dol.gov

The Freedom of Information Act (FOIA) governs the release of information concerning accident inspections conducted by OSHA. The releasable portions of the file will be made available to

you upon written request. OSHA's policy is to waive fees for Freedom of Information Act requests in these circumstances, subject to the requirements of 29 CFR Part 70.

Sincerely,

_____, Area Director

APPENDIX D

INSPECTION FINDINGS LETTER – PROPOSED CITATIONS

Dear _____:

We are writing to share with you the findings of the recent Occupational Safety and Health Administration (OSHA) inspection into the death of your [husband, mother, son, etc.].

[Insert one or two sentences on the workplace hazard(s) that contributed to accident or death, if possible. For example, "OSHA's inspection determined that the trench Mr. Jones was working in was not properly sloped or shored and no cave-in protection such as a trench box was provided. Rain on the day of the accident and heavy equipment operating nearby increased the risk of cave-in."]

Enclosed is a copy of the citations and proposed penalties against [name of company]. OSHA citations state the alleged violations of safety and health standards at the worksite. They also note which alleged violations OSHA has determined to be specifically associated with Mr./Ms. _____'s death.

We would like to emphasize that, under the Occupational Safety and Health Act, civil penalties that OSHA imposes are not based on the occurrence of a fatality. Instead, the gravity of the violation, which factors in severity of injury and probability of occurrence, is one consideration in penalty calculation. Penalties may be reduced from the maximum allowable by law based on the company's size and history of previous violations. In some cases, penalties may be reduced in exchange for a company's prompt correction of problems in order to protect other employees at the site and to resolve the hazards promptly.

Enclosed is a brief fact sheet that further explains OSHA's citation and penalty policy and should help in understanding the citations. We know that no amount of money or compensation can measure the loss you and your family have suffered and your lives have been changed forever because of this tragedy. I would like to express to you my deepest sympathy. If you have any questions about our inspection or any of the information enclosed, please contact me:

Area Director
USDOL/OSHA
Street Address
City, State ZIP

Telephone: _____
E-Mail: _____@dol.gov

The Freedom of Information Act (FOIA) governs the release of information concerning accident inspections conducted by OSHA. The releasable portions of the file will be made available to

you upon written request. OSHA's policy is to waive fees for Freedom of Information Act requests in these circumstances, subject to the requirements of 29 CFR Part 70.

Sincerely,

_____, Area Director

Enclosures

(Enclosure)

OSHA CITATIONS AND PENALTIES

OSHA citations state the specific safety and health standards the company is alleged to have violated. They note, both by number and name, the individual sections of OSHA standards that the employer allegedly failed to follow. (A complete listing of OSHA standards is available for review at the OSHA area office or can be accessed on the agency's Internet site at www.osha.gov under "Standards.")

Citations specify the location in the plant or on the site where the violation occurred and the circumstances surrounding the violation. The Area Director of the local OSHA office that conducted the inspection signs and issues the citations. Citations must be issued within six months following identification of the violations. Even if they disagree with the findings, employers must post a copy of each citation at or near the place where an alleged violation occurred for three days or until the violation is abated, whichever is longer.

Citations identify required abatement dates (the dates when the hazards must be corrected) and proposed penalties for each alleged violation. For violations that are easy to fix, immediate abatement may be appropriate. If an employer must purchase equipment or significantly modify the workplace, a longer period is permitted.

Proposed penalties may range as high as \$70,000 for a willful or violation \$7,000 for a serious violation. These amounts were set into law by Congress in 1991. Other-than-serious violations may carry penalties or there may be no penalty proposed for these violations. OSHA proposes citations when a standard has been violated. The amount of each proposed citation can be adjusted based on the employer size, good faith on the part of the employer (those implementing the safety and health program), and inspection history.

Violations are classified as willful if OSHA has evidence that the employer intentionally disregarded the requirements of the Occupational Safety and Health Act of 1970 (OSH Act) and/or was plainly indifferent to the safety of employees. Violations are identified as serious if there is substantial probability that death or serious physical harm could result and that the employer knew, or should have known, of the hazard. A violation that has a direct relationship to job safety and health, but probably would not cause death or serious physical harm, is classified as other-than-serious. Violations may also be characterized as repeat if OSHA has cited the company for a substantially similar hazard within the past five years.

OSHA proposes penalties as a result of violations, but does not actually have the authority to impose fines. That authority is granted by law to the Occupational Safety and Health Review Commission (OSHRC), an administrative review board that is completely separate from OSHA and the U.S. Department of Labor. Employers can contest (challenge) alleged violations, proposed penalties or abatement dates before this board. If the employer decides to challenge any part of OSHA's findings, they must do so within 15 working days after the employer receives the citations.

Employers may request a meeting with OSHA to discuss the issued citations and possibly to enter into an informal settlement of the case. This may involve reductions in penalties in exchange for promptly correcting violations. OSHA's primary concern remains prevention of injuries, illnesses and deaths rather than collection of funds. (All penalty monies go directly to the U.S. Treasury; they are not part of OSHA's budget or credited to the agency.)

If an employer acknowledges the violations and agrees to pay the proposed penalties, then the citations as issued or amended automatically become a final order of OSHRC. The employer pays the penalties and the case is closed. The employer may also contest a part of a citation and pay part of the penalties assessed, or contest the entire case. Contested cases proceed through an administrative review process at the OSHRC. The employer or OSHA may further appeal the case in the appropriate U.S. Court of Appeals, if dissatisfied with the OSHRC's decision.

When an employer is charged with a willful violation of an OSHA standard and that alleged violation results in the death of an employee, OSHA may ask the U. S. Department of Justice to seek criminal prosecution of the employer. These are difficult cases to prove and few cases reach court and convictions are rare. However, should an employer be convicted, he or she could face a fine of up to \$250,000 individually and/or a jail term of up to six months. A corporation could receive a fine of as much as \$500,000.

(Enclosure)

OSHA FATALITY INSPECTIONS

Congress enacted the Occupational Safety and Health Act of 1970 (OSH Act) to assure safe and healthful working conditions for working men and women. The Occupational Safety and Health Administration (OSHA) was established under the OSH Act to provide for the enforcement of standards developed under the Act. There are both Federal and State OSHA programs.

OSHA inspects the worksites where fatalities have occurred to determine whether a violation of OSHA safety and health standards occurred. These inspections are often comprehensive in nature, but at times may be limited to the area in which the fatality occurred. If OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil penalties against the employer, and may also refer the case to the U.S. Department of Justice for possible criminal prosecution.

OSHA does not issue citations solely because there was a workplace fatality. However, if during any inspection, OSHA finds that the employer violated safety and health standards, the agency may issue citations and seek civil or criminal penalties against the employer.

Upon written request, OSHA can release the portions of the inspection file normally available to release under the Freedom of Information Act (FOIA) and this information will be provided to next of kin, **without charge**. In an effort to keep the next of kin apprised of developments during an inspection, OSHA sends them copies of citations (the formal notice of alleged hazards in the workplace), appeal letters (the employer's notice of disagreement with the issued citations), and informal settlements (a binding agreement between OSHA and the employer to settle the case) as soon as the document is issued. Furthermore, OSHA is committed to the exchange of information with the next of kin as follows:

- Any time during the inspection or the resulting litigation, the next of kin may contact the local OSHA office to inquire about the status of the case or to ask questions.
- If the next of kin has information or evidence that can assist in the inspection, they are encouraged to take a proactive role and share this information by writing, calling or e-mailing the local OSHA office.
- The next of kin is encouraged to follow up and inquire about any information they have sent to OSHA or on information received from OSHA. In such cases, they are free to write or call the local OSHA office.
- Upon issuance of the final order, the next of kin will be afforded the opportunity to meet with Area Director to answer questions and explain the settlement decision.
- OSHA will notify the next of kin when the case is closed. At that time, the portions of the file that can be released under FOIA will be made available to family members, at no charge, upon written request.

APPENDIX E

NEXT OF KIN CLOSURE LETTER – PROPOSED CITATIONS

Dear _____:

We are writing to share with you the post-inspection and abatement results of the Occupational Safety and Health Administration (OSHA) inspection into the death of your [husband, mother, son, etc.], and to inform you that the case has been closed as of the [insert final order date].

[Insert one or two sentences to explain results of the final order and any abatement.]

We would like to emphasize that, under the Occupational Safety and Health Act, any penalties proposed by OSHA as a result of a citation are not based on the occurrence of a fatality. Instead, the gravity of the violation, which factors in severity of injury and probability of occurrence, is one consideration in penalty calculation.

The Freedom of Information Act (FOIA) governs the release of information concerning accident inspections conducted by OSHA. Now that the inspection file is a final order, the releasable portions of the file will be made available to you upon written request. OSHA's policy is to waive fees for Freedom of Information Act requests in these circumstances, subject to the requirements of 29 CFR Part 70.

If you have any questions about our inspection, please contact me:

Area Director
USDOL/OSHA
Street Address
City, State ZIP

Telephone: _____
E-Mail: _____@dol.gov

Again, I would like to express to you my deepest sympathy.

Sincerely,

_____, Area Director

APPENDIX F
OSHA's BASIC FATALITY INSPECTION COMMUNICATION PROCESS

PHASES	STAGES	ACTIONS
INITIAL COMMUNICATION	After accident and within 5 workdays of opening conference	Area Director Condolence Letter Appendix A
		Assistant Secretary Condolence Letter Appendix B
FOLLOW-UP COMMUNICATIONS	Throughout inspection	Periodic exchange of information with next of kin
	No proposed citations	
	Citations proposed	
POST-INSPECTION COMMUNICATIONS		Communicate inspection findings with next of kin
	No Proposed Citations	Inspection Findings & Next of Kin Closure Letter – No Proposed Citations Appendix C
	Confirmation of receipt of citations	Inspection Findings Letter – Proposed Citations Appendix D
	Case becomes final order	Next of Kin Closure Letter – Proposed Citations Appendix E

Definitions and Examples of Types of Interview Questions

Open-ended questions

- These questions are good to use when starting the interview because they stimulate the interviewee to talk
- Directs the interviewee to tell the interviewer more about a subject or an event

Examples

- Can you tell me how this process works?
- Can you explain to me your knowledge of the company's LOTO program?
- Could you tell me more about what happened to you today?
- Can you tell me about the training you have received on the chemicals you work with?

Indirect questions

- Getting involved in a conversation without directly asking questions. (People from the South and the TV series "Columbo" use indirect questioning)
- They are questions without the threat associated with direct probe.
- Indirect questions can often be open-ended questions.

Examples

- Would you mind explaining how this works?
- It seems like gloves are necessary for this type of work, what do you think?
- I'm wondering how you feel about the safety procedures?
- How do you know those are the right gloves?
- Could you tell me how you feel about the accident?
- I'd be interested to hear about your
I'd like to know...
Would you mind telling.....

Direct questions

- These questions ask the interviewee about an action, concerning who, when, where, how and why without mincing words, the question goes straight to the point or heart of the matter.
- Use to clarify a point.
- Often are yes or no questions or they are asking for specific information.

Examples

- Did you follow the procedures?
- Did you see the accident?
- Has anyone ever been disciplined for not following safety rules?
- Have you ever been informed of these rules?
- Do you know what the rules are?
- How many employees work in the spray paint area?

Leading questions

- A leading question is a question that is not neutral and suggests the answer or contains the information the interviewer is looking for.
- Leading questions reveal information the interviewee may not have known and lead to a desired response.
- Leading questions may often be answerable with a yes or no.

Examples

- Do you feel you were properly trained by management?
- Is it true your respirator training did not include how to clean your respirator?
- I understand that the PPE you are given is not very effective?
- Is it true the guard on the machine is not normally used?

Active Listening Skills

Empathy

- Focuses on the feelings, words, and perspective of the other person. When you empathize with someone, you recognize that there is an emotion impacting the situation. It might be anger, frustration, anxiety, relief, or any number of other emotions. Empathy helps you establish a connection with the interviewee.
- Acknowledging the other person's feelings will help to calm them down if they are angry
- Labeling the emotion is one of the tools used to establish rapport but use it sparingly

Examples of how to label an emotion

- You appear to be upset about....
- It sounds like you are frustrated because.....
- You appear confused with....
- It seems to me like you feel angry about the accident.....
- You look relieved about the outcome of this inspection.

Silence

- Strive for periods of silence during an interview.
- Results in the person talking more and giving you additional information.
- When someone is venting, use silence to allow them to let off the pressure of their emotion.
- It gives the impression that you are a good listener.
- It can communicate confidence.

Minimal Encouragers

- If you are trying to get more information and your interviewee goes silent try one of these phrases listed below, before asking a new question.
- Make the phrase second nature through practice.
- Shows you are listening attentively and are focused on the subject's words.
- Remember your nonverbal communication has to match the verbal; otherwise you will appear to be insincere.

Examples

- Yes...
- Ok....
- I see....
- Tell me more....
- I like to hear more about that.....
- That is interesting... tell me more.
- Help me understand, please continue...
- Nodding your head

Mirroring

- In mirroring, interviewers only repeat the last words or main idea of the subject's message.
- When you mirror someone you repeat what they said word-for-word.
- Mirroring can be helpful in the early stages in an attempt to gain information and build rapport.
- Mirroring can also help to diffuse conflict

Examples

- Interviewee: The machine has been unguarded for the last 2 weeks.
Interviewer: Unguarded for the last 2 weeks, huh?
- Interviewee: I'm really angry about them not fixing the leak in the tank.
Interviewer: So you feel angry about them not fixing the leak in the tank. Is that correct?

Reflecting

- The interviewer will occasionally put what the interviewee has said in their own words. Reflecting shows the person that they have been heard and makes the person feel understood.
- This can be accomplished through paraphrasing or summarizing.
- Paraphrasing is a short summary of what the other person has said in your own words
- Summarizing condenses in your own words all the main points of what was said.

Examples

- Interviewee: I wish someone had taken the time to train me properly on how to clean-up a chemical spill, all they did was show a video.

Interviewer: Let me see if I heard you correctly, you were shown a video as part of your training and no hands on application?

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Guidelines on Interviewing Techniques

The first step -- before you schedule the interview -- is to collect as much information on the topic as possible. In preparing your CIP, information has been gathered from a variety of sources. This information must be analyzed to provide a logical scenario. Outline the facts you already know, and particularly the facts you think you know but about which you are unsure. From the outline, identify the "holes." They will provide obvious questions for the interview not previously identified in your CIP. This will also provide an opportunity for you to identify those facts which need corroboration.

After your preliminary research, write out the questions, in logical order, that you will be asking during the interview. Combine them into related areas so that you have no more than 10 general questions. Each general question may then be subdivided into three to five more specific questions that you will use to direct and control the interview.

1. Putting Yourself at Ease

Some investigators have expressed concern about how to lessen the build-up of anxieties before and during various interviews which tend to interfere with their investigative skills. Although it may be impossible to do away with feelings of anxiety completely, in this situation there are certain techniques which might minimize their disruptive effects.

- Remember that the purpose of an investigative interview is to gather information, not to interrogate a witness like an attorney. As such, you do not have to play the "heavy." Instead you can create a posture which allows you to be open with the interviewee and receptive to the information offered. This does not mean that all the information given is of equal value or usable, but this open posture might increase the likelihood that some information will not be withheld. If you assume an adversarial position at the beginning, on the other hand, this opportunity might be lost.
- Be prepared that sometimes managers and supervisors will have attorneys present and that these attorneys might not allow the official to answer many of your questions. Do not let this disturb you. You may not get all the information you desire at this time, however, it may be more important in the long run to focus on letting the supervisor know that you acknowledge the constraints he or she is under and that you do appreciate receiving any possible information at this time. In the end, the supervisor might be more willing to respond.
- Try not to prejudge the interviewing situation and expect specific reactions from the interviewees. Preconceptions most often result in narrowing the focus of the interview prematurely and thus restricting the flow of information. Also, if your pre-interview expectations are firmly set, any unexpected information or change of direction might surprise and disturb you, making it difficult for you to adapt to the situation and clearly understand the facts as given.

2. Introduction and Framing Perhaps one of the most crucial steps in conducting an effective investigative interview is to clearly identify yourself as a professional to the interviewee and to explain carefully the purpose and process of this investigatory interview. Although these skills might seem elementary to some investigators, without their mastery, the task of gathering needed information from the interviewees might be very difficult.

(a) INTRODUCING YOURSELF TO THE INTERVIEWEE

There is no prescribed way in which an investigator should introduce himself or herself to the interviewee. Each interview situation as well as each interviewee will be somewhat different and may require a slightly different approach. One has to remain flexible. There are, however, some basic steps some investigators have found helpful in introducing themselves to the interviewees.

- Some investigators feel that you should have your Department of Labor identification handy, in case management asks for it. Others feel that you should present your professional credentials to each interviewee at the very beginning whether or not it is asked for.
- A brief description of your role as a representative of the Department of Labor is helpful. This should include a statement of your role as the investigator of a complaint of discrimination. Skilled investigators warn against giving a lengthy or detailed account of their responsibilities, since this often confuses the interviewees. (Be attentive to the interviewees' reactions while explaining your job. If you sense you are losing them, repeat the essential duties and bring the description to a close.)
- Establishing the proper tone or manner of expression at the beginning of the interview is crucial. This will often vary with the investigator's personal style as well as with the interviewee's reaction to the interviewing process itself.
- Anticipate and plan for a response to questions, especially about the process of selecting interviewees. (For example, often the interviewee is unclear why he or she has been chosen from the staff or from among the participants to be interviewed. Since the interviewee needs reassurance, at this time, briefly explain the specific reason for his or her selection, or indicate that he or she was chosen randomly from among the group, or that a party to the complaint suggested he or she may have some information. Sometimes when individuals learn that a Federal Government representative is coming on-site, they may approach you during their interview with a formal complaint. Since the reason for your visit is to gather information, not to solicit complaints, in most cases you could inform the interviewee of this and redirect his or her attention to the investigatory purpose at hand.
- Anticipate the interviewee's uneasiness in answering specific questions and be prepared to ease these anxieties if possible. For some interviewees this merely entails the reassurance that their answers are only a small part of the overall information you will be gathering. For others, this might include the assurance that they do not have to answer every question, that if they do not have knowledge of a particular issue they should say so.

(b) FRAMING THE INTERVIEW FOR THE INTERVIEWEE

Skilled investigators believe that in order to keep interviewees focused on the objectives at hand, it is helpful to outline briefly how the interview will be conducted with some indication of the agenda to be followed. The interviewee feels more at ease when he or she has a clear map to follow. This might include some of the following types of questions:

(1) Participant Interview

"We are going to discuss how you heard about this program. Also how you were selected to participate in the program. You may also be able to clarify for us the kinds of support (e.g., financial, counseling) services you have been receiving since you joined the program."

(2) Recipient Administrator Interview

"We are going to discuss how participants are selected and how they are matched to job sites. Also we

would like for you to describe why this training program is being offered and what assurances you have from employers for hiring your participants. In addition, we would like to know the criteria for sending trainees to the various training components."

(3) EO Officer Interview

"We are going to discuss how training slots are filled throughout the program. Also we would like you to describe how an applicant usually obtains a slot. You also may be able to clarify for us the kinds of training you offer."

(4) Employee Interview

"We are going to talk about how you came to work for this employer and what kinds of changes you may have seen since you were hired. We are also going to talk about your recent promotion."

(5) Supervisors Interview

"We are going to talk about how you select and interview employees for your department and if this process is the same throughout the organization. Also we would like for you to describe how employees are promoted in your section and if that process has always been the same."

3. Some Helpful Hints

- Most investigators believe that establishing a specific time schedule for completing the interviews with each interviewee is unnecessary, and that remaining flexible about time frames is perhaps more realistic.
- Most investigators agree that supervisors more often than employees, are skillful in leading the investigators away from the agenda. Resist these attempts to veer off course and refocus the supervisor to the task at hand.
- Many investigators find it crucial to establish a framework of information needed and to make certain this is understood by the interviewee. Often this is accomplished by acknowledging that the interviewee has a wealth of knowledge about the company but that it would be most helpful if they could limit the information to that requested. Gently setting limits for the interviewee initially may save valuable time and keep the interviewee focused on goals.
- Both at the beginning of as well as later in the interview, most a investigators find it important to avoid any philosophical debates on the merit of the investigation or review itself and instead stress their role as an implementor of a government policy; not an interpreter of it.

4. How to Listen Effectively Many investigators experienced in interviewing say the most important responsibility of the EOS in an interview situation is listening. Interviewees will get an impression of what they should tell you by how you listen and by the tone of your questions and remarks.

Listening patterns that you already demonstrate in your daily life carry over into your interviews. Some of you are skilled listeners; others are less adept. Listening skills, like all skills, vary from person to person and can be developed through practice. Here are some tips on listening cited by some investigators skilled in interviewing.

(a) LISTEN WITH PURPOSE

The first element to listening effectively is to keep in mind specific information you need to verify or

refute the problem/potential violation you are considering. Direct your questions to these specific points. You should also maintain good eye contact with the interviewee (although do not overdo it and stare, causing discomfort to the other person). If you are taking notes, make sure you frequently took up at the interviewee. By listening with your specific objective in mind and maintaining good eye contact you will:

- enhance your ability to be genuinely interested in what the interviewee says;
- lessen the temptation to listen carelessly by becoming distracted by extraneous sights and sounds and/or becoming preoccupied with personal concerns or other matters not relevant to the discussion; and
- increase your ability to concentrate, to focus the interview, and to question skillfully.

(b) SUSPEND JUDGMENT INITIALLY

An investigator stops listening well when he or she has already formulated an opinion in an interview. For example, an investigator might presume a respondent is aware of the discriminatory nature of his or her policies, attitudes and/or remarks when that may not be the case at all. Holding this already formulated opinion, the investigator tends to hear what he or she wants to hear from the respondent. He or she picks out of the conversation those comments or remarks which support his or her opinion, and tends to ignore those that contradict those beliefs. His or her listening, in this case, is negatively affected by this prejudgment and the information obtained will likely not be sufficient or accurate.

When you are in an interview it will be helpful if you can be aware of the tendencies in you and in most people to judge or evaluate quickly and to jump to conclusions and make faulty inferences. Resisting these temptations will increase your listening ability.

(c) DO NOT TALK TOO MUCH

Experienced investigators say this is one of the hardest and most important things to practice in order to be a good listener. Skilled interviewers resist the temptation to interrupt the other person (unless he or she is too talkative or strays too far from your objectives in his or her replies). They generally talk much less than the interviewee and do not jump in with a question or comment every time the interviewee stops talking. They even find that silence is frequently conducive to getting the information they desire as interviewees sometimes need time to sort out their thoughts.

(d) USE FEEDBACK CHECKS WITH INTERVIEWEE

(1) For Clarification

Skilled investigators make sure that no language difficulties on either side inhibit mutual understanding. They try to keep their language simple and clear. They try to avoid program jargon.

When you are unsure about something you have heard, you can check out your understanding with the other person. Questions like the following might be helpful:

"That's a little unclear to me. Could you explain in more detail what you meant by..."

"Could I stop you for a minute here? I'm a little confused about... Maybe you could put that in different words for me."

"I really want to understand exactly what you're saying and I'm a little fuzzy about... Could you go over that again?"

"I'm sorry. I missed that last part. What did you say?"

(2) For Understanding of Content

At various times in an interview it will be helpful for you to check in with the other person to make sure you have heard him or her correctly. Rephrasing in your own words the content of what the interviewee says, to his or her satisfaction will aid you in obtaining pertinent, correct information. It will also help you organize the information you are hearing so that you will be able to see if it corroborates or refutes the problem/potential violation you are considering.

The following phrases and/or questions are examples of ways to begin giving this summary feedback to the interviewee:

"Could we stop for a minute so I can check with you on what I think you said? I heard..."

"What I heard you say is ... Is that correct?"

"I'd like to make sure I've gotten the main points of what you've just said. Could we stop here for a minute? My understanding is..."

5. How to Distinguish Statement of Fact From Opinions and Hearsay

Many investigators have discovered that during their investigative interviews with EO Coordinators, supervisors and employees, they must distinguish between statements of fact, opinion, and hearsay. Without the ability to distinguish between these types of statements, the information gathered is not useful because it has not been verified. Also the summary of findings from the information received could be misleading. Remember, the reason for conducting the interviews is to support or refute your allegation that a potential violation exists.

It is important to listen to the interviewee and determine if the person is making statements which he or she is offering as fact or opinion. Sometimes the investigator can accept a statement of fact as fact. However, most times you will need to verify all statements since they may be given as fact or opinion.

One way for investigators to effectively label information as it is given might be to indicate in one of the margins of their notes whether the statement is a fact or opinion. Another way is to take notes using the actual words (see verbal cues next page) the interviewee uses.

In some cases, a particular employee may only be able to give the investigator hearsay or opinions about processes. These opinions might be quite important and alert the investigator to ask about certain patterns. At the same time, the information should be labeled properly, and if possible, verified. Hearsay can sometimes be a cue to the investigator about possible problems of violations and can lead to other information. Again, however, the information should be labeled properly.

(a) DEFINING THE TERMS

A clear definition of these three types of information might be helpful for the investigator.

(1) 1st Hand fact is an "actual occurrence, or event, proven by witnesses."

(2) Opinion is "an appraisal formed in the mind about a particular matter, a judgment." A belief not substantiated by positive knowledge or proof.

(3) Hearsay is "a rumor, something heard from another person."

There are some verbal cues which might help the investigator more easily distinguish among these three types of information.

FACTS are often introduced with eyewitnesses statements:

- "I saw..."
- "When we were watching,..."
- "We encountered..."

OPINIONS, on the other hand often are interpretations of occurrences and tend to be expressed:

By generalizations:

- "The company does not..."
- "Management believes..."
- "Workers usually..."
- "They say that..."

Or by very general adjectives:

- "high productivity"
- "poor performance"
- "good work"
- "some trouble"
- "fair program"

Or by certain conditional verbs:

- "He might have..."
- "She should have..."
- "They may do..."

HEARSAY is often expressed as a third-hand observation. Usually the observer is not even identified.

- "I heard that in the department..."
- "I think that these people suggested..."
- "John told me that his supervisor did..."

(b) HOW TO VERIFY THESE STATEMENTS

This information will be more worthwhile to the investigator if it can be verified or corroborated by another or better source. Try not to ignore information offered by interviewees or prejudge statements as insignificant, hearsay, or mere personal opinion until you have had the chance to verify the information.

There are various ways in which to do this. Subsequent interviews with the EO Coordinator, various supervisors and certain employees or participants can, at times, offer corroborating evidence to verify certain previously acquired information. These occasions are described below in some detail.

(1) EO Coordinator

If the investigator is given information by the EO Coordinator he or she suspects is opinion, there are many ways in which he or she can verify it as fact. He or she may use personnel files, copies of personnel policies, job qualifications, performance evaluations, and other written material. The investigator may also ask the EO Coordinator for documentation. Also he or she can interview other managers, supervisors, employees or participants to corroborate the EO Coordinator's statement.

(2) Supervisors/Managers

Again, the investigator can often verify whether personnel policies described by the supervisor exist by examining policy statements, personnel files, training records, termination statements, wage and salary reviews, and other written materials. Corroboration may be possible by interviewing specific employees who operate under the particular supervisor interviewed or by questioning other supervisors in similar job titles.

(3) Employees

To verify statements given by protected group members, select a non-protected group member and ask specifically how some employment policy has affected the groups.

To corroborate statements by a non-protected group member, select other non-protected group members, as well as a protected group member to question. Ask them to describe the specific employment policy, mentioned by the first employee and how it works generally. Any discrepancies should become readily apparent.

(4) Recipient Administrators

To verify statements given by the Administrator, check the recipient's policies, minutes of meetings, and planning council members or other policy groups involved. Often community based organizations are knowledgeable of a recipient's policies. In some instances, participants or other State members may be able to corroborate statements made by the Administrator.

(5) Participants

To verify statements given by a participant, discuss the issue with other participants, particularly those not working in close proximity to one another. Be sure to get a cross section of participants. For example, non-protected group members and protected group members who are participants should be interviewed.

(c) HOW TO PROBE EFFECTIVELY

Two of the chief objectives of an investigative interview are (1) to get an accurate picture of how an employment/training process operates, and (2) to discover the major distinctions concerning key selection criteria that make a difference in employment/training decisions. This is a difficult task since many managers and employees have trouble articulating their own experience and how processes work

in general. Investigators who are successful in obtaining this information are skilled in the art of probing.

(1) When To Probe

Probing is asking questions about a given interview response to identify and obtain more specific information that the initial response often has behind it. There are many clues as to when probing is appropriate -- here are some:

- When you are given a very general answer such as "We promote people on the basis of their education attainment;" the investigator needs to probe for more specificity (e.g., what level of kind of education, high school versus college; special degrees; specific courses.)
- When you are given an answer which suggests that they "always" hire, promote, train or terminate on an equitable basis, (implying that they do not discriminate); then the investigator needs to find out whether they do apply selection criteria uniformly -- are there any exceptions to the "general rule." These exceptions then become the criteria.
- When you are given a general answer about how trainees and work sites are selected, e.g., "We select those most in need...", the investigator needs to know who is considered most in need based on the current unemployment rate and the standard metropolitan statistical area.
- When you are unclear about what has been said, you need to check out what you have heard (as we talked about earlier in the section on "Listening skills") and ask for clarification.
- When an employee, participant or recipient gives an opinion or offers "hearsay" information, the investigator needs to find out the factual basis (if any) for such an opinion or the source/documentation of the non-witnessed information.
- When the interviewee's facial expression or personal manner show anxiety or tension (e.g., shifting position frequently exhibits nervousness), this may indicate (not always) that there is additional information which is not being offered but rather suppressed or hidden.

(2) How to Probe

As we said above, probing is an art. Probing can have both positive and negative effects. The positive effects are:

- You get the information you are seeking.
- You get additional information that is helpful to your interview because you have established good rapport and a comfortable climate.

The negative effects are:

- You put people on the defensive and they refuse to answer or give only vague answers.
- The interviewee gives you too much non-relevant information.
- The interviewee becomes lost in the questions and ceases to be responsive.

How you probe can make the difference between a positive and negative effect. Here are some do's and don'ts with regard to probing:

(3) Behaviors Which Work

- When asking a probing question

Use a friendly, polite tone.

Keep question short.

Use non-technical language.

Try to avoid interrupting unless the interviewee is giving you too much information which is not helpful or not relevant to the topic.

- Whenever possible phrase the question in such a way that the interviewee is helping you. In this way, there is less of a chance that the person feels like he or she is being accused of something. Try not to use an accusatory "you." For example:

"I understand..., but I'm still unclear about..."

or

"I'm puzzled about..., could you elaborate on...."

or

"I'm still confused about how... works, can you give me an example or can you describe the most recent occurrence."

as opposed to

"Why did you do that...."

"Don't you know that...."

- When the person gives you a general, vague or no response, calmly rephrase the questions.
- Ask individuals to provide examples.
- Allow the interviewee time to think of a response to your question. If we are really listening to someone we need a few seconds to formulate a response.
- Be patient and stay relaxed.
- Use non-directive questions such as:

"I'm not sure what you mean, can you explain further?"

"Would you please repeat what you said about...?"

"Is there anything else you can add?"

- Remain objective (in a neutral position) both in speech and manner, i.e., respond by repeating what the interviewee has said without adding judgmental words, or say "I see" without raising your eyebrows or indicating surprise.
- Be silent. Sometimes silence can be an effective probe. People tend to be uncomfortable with silence and will add to or clarify what has previously been said without you asking another question. When using silence the investigator must still show interest and display an expectant attitude (usually by maintaining eye contact) for this to work.
- Wait and go back to a previously discussed question. Many questions receive evasive or hostile responses. In the situation where a person tries to evade repeated probes for information, it may be more effective not to push for an answer immediately but rather to go back at a later time. For

example:

"A while ago, you said...could you elaborate further."

"I'd like to go back to how people are..."

"We talked about...earlier, perhaps you could give me (another) example."

Likewise if you have provoked a negative emotion, e.g., anger, hostility, blocking, fear, one way of letting the emotion defuse is not to push but to go back to the subject again later once the interviewee has gained composure. It is important that you not drop the topic completely, if you choose this tactic as opposed to acknowledgment of feelings (see section on Negative Response), you should go back to it later and try again. Remember your goal is to get the best and most complete information possible.

(4) Behaviors Which Have Negative Effects

- Repeating the same question over and over again.
- Interpreting the question before you allow a response.
- Acting surprised, shocked, smug, etc.
- Summarizing the response and including a judgment about its validity, e.g., "It's hard for me to believe that you..." or "Did you really say..." or "I can't believe..."
- Using the word "why" too often.
- Using the word "you" in an accusatory manner.

6. Asking About Comprehensive Procedures

Asking someone to describe complete systems/procedures, e.g., the selection process, seems like a straightforward matter but often is not. It is hard for the person you are interviewing to give you the kind of information you want organized in a way that is most useful to you. The ordinary tendency of not being able to give a factually and complete reply is made worse by the perceived fact of the adversary relationships between the investigator and the program administrator. The investigator must work to minimize these problems in order to get the information he or she needs to conduct the investigation.

The simplest and most frequently used beginning question to obtain a description of a given procedure, e.g., the selection process, is the obvious direct one:

"Would you describe your (selection process):"

The virtue of this question is that it is simple and straightforward, easy to remember and is probably readily understood by most of the individuals of whom it is asked. Its disadvantage is that it puts the entire burden of retrieving, selecting and organizing a response on the person being interviewed. It does not provide any hints of what kind of description would be most useful to the questioner, nor does it give the person being interviewed any framework to aid in organizing his or her thoughts and description. Some investigators have dealt with this problem by using a different question:

"Let's say that I (wanted to be trained or hired) what would I do first and what would actually happen? Would you take me through it?"

This question tries to make it easier for the person being interviewed to answer by giving him or her a way of thinking about and organizing a description, i.e., what would actually happen first, second, third,

etc., to a person who went through this process. Some investigators try to maximize the concreteness of the description they get by asking for an actual "walk-through" of the process. For example:

Investigator: If I wanted to apply for training here, what would I have to do?

Program Administrator: You come in and fill out an application.

Investigator: Where would I get the application?

Program Administrator: From our receptionist in the lobby.

Investigator: Could we walk down there?

(Investigator and Administrator walk to lobby. Meet receptionist.)

Investigator: If I came in and said I wanted to apply for training, what would you do?

Receptionist: I'd ask if you were interested in GED or skills training. I can usually tell without asking.) If you want skills training I'd give you an application and ask you to fill it out and leave it with me.

Investigator: What if I want to enter a GED program?

Receptionist: I don't have the GED applications. The lady at the front desk has them. I send GED applicants out there.

Investigator: (Finishing interview with receptionist, then saying to the Administrator) "I'd like to walk out to the lady at the front desk, then come back and talk to the person who gets the training applications from the receptionist.

You can see by talking directly to the person who actually handles each part of the process, the investigator is getting a very concrete description from the person with the best knowledge of it. Notice also, that this "walk-through" technique tends to result in a description of what actually happens rather than of what should happen. (A description by a single source (EO Administrator) sitting in an office is likely to drift away from what actually happens to what's supposed to happen). The disadvantage of a "walk-through" interview is that it can be time consuming and can be stymied if key people are not available. Nevertheless, it is an available way of getting a more concrete best-evidence description of a given selection process.

7. How to Deal With Negative Reactions

During the course of your interviewing, you will no doubt be confronted with people who display some emotion, be it anger, hostility, fear, defensiveness, frustration, guilt, etc. They may come into the interview with these feelings or they may develop during the course of the meeting. These negative emotions can interfere with your interview objective -- obtaining certain information. It will be to your advantage to be able to recognize behavior on your part that may contribute to these negative reactions, and to know how to deal with them when they do occur so that you do not hurt your chances of meeting your interview objectives.

There are certain behaviors that tend to predictably result in less than friendly feelings and behaviors. (Of course, personality types do differ and what may provoke one person will not bother another.)

In interviews with administrators and managers, investigators report negative reactions to the following behaviors:

- Presenting negative desk audit findings as conclusive.
- Making unsubstantiated allegations.
- Pursuing an admission of guilt.
- Being accusatory in questioning.
- Quoting regulations constantly.
- Nitpicking and being mechanical about technical things (e.g., correcting grammar in policy statements, insisting on correct placement of EO signs).
- Being demanding about a specific format for data.

The above behaviors can either be avoided entirely or handled in such a way that the investigator not only maintains a good relationship with the interviewee but meets his or her objective for the interview as well.

In some interview situations, the investigator is faced with an interviewee with a negative emotion before the meeting even begins. Employees in general, approach the interview situation with some apprehension and fear. Trainees, especially, can be intimidated when told that someone from the government wants to talk to them. They are frequently concerned about why they specifically were chosen, and if they are in trouble or if they are going to get into trouble. Some might say, "I don't want to be here," or "I'm not going to answer any questions," and totally resist giving you any information.

As was previously mentioned in the section on the introduction, it is helpful initially to try to put the person at ease by being friendly and informal and telling him or her that you are from the Federal Department of Labor. Go on with the explanation that you are investigating a complaint of discrimination. You can further explain that as part of this process, you are required to interview many people and he or she was one of those chosen. Emphasize the voluntary nature of the interview and ask if the person has any questions before you begin your questions.

By eliminating the pressure and leaving the interviewee space, investigators report a lessening of resistance and blocking of information. The other person is much more likely to give them the information they are seeking.

Occasionally investigator's report they encounter an employee who is quite distressed and agitated and wants to talk at length to the investigator about how he or she is being treated unfairly. One way of handling this is to let the person talk, jotting down the pertinent facts and then dismiss him or her by saying you will be in touch prior to completing the investigation. Later, the investigator can interview another person to either corroborate or refute the person's allegations and then take the necessary follow-up actions.

Here are some tips on relating to people in interview situations so that negative emotions do not intrude on the successful outcome of the interview.

- Establish Good Rapport

It is helpful to establish a good rapport on a human basis with the other person. Presenting yourself as an information gatherer rather than as an interrogator or a detective will help. Being friendly and concerned will aid in creating a comfortable atmosphere.

- Do Not Reflect Irritation or Anger

It is to your advantage not to get heated or emotional no matter what the other person's behavior is like. If anger is not returned, it becomes more difficult for the other person to stay angry. **STAY CALM**. Remember that this anger is not directed at you personally and is not a comment on your worth as a person or an interviewer. (It is more of a comment on the interviewee feeling threatened.)

- Acknowledge Other Person's Feelings

One effective method of defusing the other person's negative feelings is to let him or her know that you understand what is being felt. One frequent outcome of this acknowledgment is that the other person's negative feelings either abate entirely or considerably lessen in degree.

The following are some examples of this:

"I can certainly understand that you might be wondering why you were asked to talk to me and might even be a little apprehensive about it."

"I can certainly understand why you might be angry about my wanting to ask you some questions."

"I can really understand that this interview might be difficult for you and has the potential of being difficult for this agency."

"I can certainly understand that you are probably reluctant to talk to me about _____."

A temptation people frequently encounter when using this method is to offer the other person advice right after they have acknowledged that person's feelings. For example, a person might acknowledge, "I can really understand that you're feeling unappreciated" but then follow it up with "What you need to realize is that your boss does appreciate you but just doesn't show it." This approach is generally not successful in diminishing that person's initial feeling. In fact, giving advice frequently creates other negative feelings as well.

Another temptation you may encounter is the urge on your part to play counselor. It is important to remember that you are not there to solve the other person's problems. This method of acknowledging peoples' feelings is primarily a tool to enable you to hear the other person clearly, defuse negative feelings if possible, and to proceed with your agenda (if the situation permits).

- Express Your Needs

After expressing your understanding of the other person's situation and his or her feelings, you can assertively express your need(s).

Investigators skilled in this technique say that it is best communicated through a relaxed, assured manner (it is not helpful to have either an exaggerated show of

strength or an appearance of timidity and weakness). Speaking in a firm, warm, well-modulated voice is preferred to using one that is weak and shaky or loud, demanding and authoritative. Another bit of advice is to think about your eye contact with the other person. He or she will be more receptive to you if you are open, frank and direct with your eyes as opposed to having them averted and downcast or cold and staring. It will also be helpful for you to be feeling confident and filled with self-respect when you are telling the interviewee your needs. Feeling hurt or anxious or angry will most likely lessen your chances of being effective at this point.

Here are some ways experienced investigators acknowledge feelings and express their needs to interviewees.

"I can understand you have a lot of things you have to do and are feeling rushed. What would really be helpful to me is to spend another 15 minutes and see if we can't finish up so I can be on my way? Are you amenable to that?"

"I can understand that you've had a difficult job trying to get these interviews arranged. I won't insist on interviewing today, but I will need to start promptly at 10:00 a.m. tomorrow."

"I can understand that you are feeling somewhat apprehensive about this meeting. I would, however, like to discuss just a few things with you."

- Use "Soft" Questions

People begin to feel defensive and are likely to react negatively when they feel backed into a corner. One way to avoid crowding the interviewee is to use soft or open questions which leave him or her space in answering, especially at the beginning of the interview. These questions tend to be broad and allow the other person more latitude in his or her answers.

The closed question, on the other hand, is narrow and limits the interviewee to a specific answer. He or she may feel trapped and blocked, when asked this type of question. A type of closed question EOS's may be cautioned to use sparingly is the "why" question. "Why" frequently conveys to the listener disapproval, displeasure or blame as in "Why are you late," or "Why can't you listen?" When you use "why" to question, be aware that the other person may feel the need to defend himself, to withdraw and avoid the situation or to attack.

Questioning in this manner does not mean you are not focusing on specific information you need to obtain. What it does mean is that you are skillfully questioning in a way that is least likely to create a negative reaction in the other person and most likely to get you the information you need.

Examples of using "soft" questions are:

"I'm wondering what happened here?"

"Could you tell me how you...."

"Do you happen to know if...."

"How do you suppose...."

"Let's look at _____ for a minute. Could you explain what happened here?"

By developing skills in these different areas, i.e., acknowledging the other person's feelings, using "soft" questions, etc., the investigator will enhance his or her ability to conduct a successful investigative interview. Confidence will grow in being able to create a comfortable interview climate and in obtaining the information you need.

8. How to Take Clear and Precise Notes

The purpose of your investigative interview is to obtain and accurately record specific information about events, policies, and processes and, as such, note taking should help, not hinder these efforts. Choosing the specific type of note taking that will be the least disruptive to the interviewee, yet help you record the pertinent facts, is very important. Therefore, each investigator should decide before the interview exactly the kinds of information he or she needs to test the allegation(s) and validate information uncovered during the investigation. With this purpose in mind, the investigator will want to compare the appropriateness of various types of note taking, noting whether they might jeopardize his or her rapport with the interviewee or interfere with the ability to listen attentively. Although laborious note taking may provide detailed information about the personnel system, it usually distracts interviewees, makes them feel neglected, or even makes them hostile.

Some investigators feel that interrupting the interviewee always is justified so that they can be assured of getting the information down accurately even though they risk possibly upsetting the interviewee or disturbing the flow of information. After all, they insist, the purpose of the interview is to gain accurate and complete statements of what is going on. Asking the interviewee to repeat, explain, or slow down is sometimes unavoidable. However, investigators need to be aware of possible negative responses and keep the interferences to a minimum. Essential information will include the following:

- Notes on important relevant ideas (can be paraphrased).
- Notes on specific points (verbatim responses to be clarified later).
- Classified responses - fact vs. opinion or hearsay.

Since the investigative interview focuses on information gathering, often the investigator uses open-ended questions and allows the interviewee's responses to flow uninterrupted so that the pattern of responses is not changed. If this type of questioning is used, it is better to use notes on specific points or paraphrased notes on relevant data rather than try and record the entire interview verbatim.

NOTE: The use of too many open-ended questions usually produces very little usable information. Left to his or her own meandering, the interviewee often will describe a great number of colorful episodes but little else. The investigator should not feel at all uncomfortable interrupting the interviewee to refocus him or her on the task at hand or to obtain some accurate statement to record. This is essential.

(a) SOME NOTE TAKING TIPS

- Explain the sequence of questions to be used according to the objectives of the interview.
- Decide upon a shorthand method for recording pertinent data that is reasonable and easy to transcribe.

NOTE: There is no prescribed shorthand method for investigators but whichever one is chosen should be used consistently and should be easily understood. Certain abbreviations, acronyms, and omissions (articles, etc.) are fairly standard and minimize the number of words written.

- Clearly indicate each interviewee by name with the date of the interview as well as your name.
- Make certain notes are legible and any omissions of information are properly labeled.
- Record only relevant data.
- Remember to label fact vs. opinion vs. hearsay.
- Go back as soon as possible for at least 2-3 minutes to fill in pages--even if you have to make the next interviewee wait.

(b) SOME HELPFUL ITEMS

Some investigators feel that use of the following items is very helpful when taking notes during an interview:

- Steno pad or other small notebook - convenient, inconspicuous, easy to file, and many interviewees find it less distracting.
- Number 2 pencil - can erase, less messy.
- Pre-numbered pages, arranged according to title of interview - easy to follow, organized, properly labeled.
- List of basic areas to be covered by questions including background, knowledge of selection process, etc., - convenient, less Likely to miss information, consistent.

(c) HOW TO SUMMARIZE FINDINGS FROM NOTES

For several years many investigators summarized their finding from each interview after they had returned from the on-site investigation. These summaries were often a brief account of the pertinent facts (one or two paragraphs). Since there was some time lag between the interview and the summary, it was important that the notes be legible, understandable, and that the use of jargon, and abbreviations be kept to a minimum.

By using the Tab Analysis System in this manual, you may avoid this lengthy and time-consuming process. Each statement or document will have a Tab Analysis sheet outlining what is important to preparing your IDR.

(d) SUMMARY STATEMENTS ON-SITE

Recently, it has been suggested that the investigator summarize each interview on-site, especially when there seems to be the likelihood of a serious violation present. If this is the case, take a supply of Tab Analysis Forms so that you may efficiently tab statements and documents as they are collected.

NOTE: investigators must be careful to record the interviewee's version of the facts, not the investigator's perception of the case. Investigators should carry copies of Appendix ___ so that statements can be written-up on-site and signed on the spot by the witness. This practice increases your own efficiency and the credibility of the investigation.

9. How to Obtain a Signed Statement

In general, only witnesses sign statements. Most management officials will not sign such statements but

it is worth asking. The investigator can note the race/sex on the interview statement (by initial only) afterwards. If you know you will be asking witnesses to sign a statement, plan ahead for the 3 to 5 minutes it will take you to write up the summary. If possible, bring a few magazines to the interview room. Most of the time it does not work to ask the witnesses to come back to sign a statement, it is better to keep the witnesses there while you write up the statement. One highly skilled interviewer gets signatures using the following steps:

- (a) Asks the witness to wait while investigator reviews his or her notes--saying that he or she wants to make sure that the information given in the interview is a clear, accurate picture. And while revising the summary notes, asks if statements are what the witness has said.
- (b) Once the investigator gets a positive response to the accuracy of the statement, he or she hands it over to the witness to read and verify.
- (c) If, again, the witness indicates that the statement is accurate, the investigator can say something like, "well then you won't mind signing it for my records" or "as an indication that I have accurately recorded your statements."

Note that the investigator has not mentioned until Step 3 that a signature is involved. The track record for signatures with this technique is excellent. However, this is merely one way of obtaining a witness' signature; there are other approaches as well.

Remember, the purpose of getting a signed statement is to verify that the written account of the interview is accurate. It is not to provide a written document to be used in legal proceedings. An investigator should never bring up the subject of legal enforcement or potential court proceedings during an investigative interview.

QUESTION TYPE	USE	EXAMPLE
REFLECTIVE	Clarify, verify so that you are not assuming, not jumping to conclusions. Repeats in question form what witness has said; shows investigator is listening.	"Are you saying that..."
FACTUAL	Asks for specific facts such as dates, names, terminology. Tunnel effect if you ask too many; can get boring.	"How many work in this office?"
OPINION	Asks for witness beliefs, attitudes, opinions.	"What do you mean when you say 'poor attitude'?"
DESCRIPTIVE	Asks for narrative account of an experience or situation.	"Describe the events leading to your discharge."
FEELING	Asks for the emotional state of the witness.	"Why do you feel you were discriminated against?"

QUESTIONING TECHNIQUES		
WORDING: QUESTIONS SHOULD BE PURPOSEFUL, CLEAR, NATURAL, BRIEF, THOUGHT-PROVOKING, LIMITED IN SCOPE, UNBIASED.		
QUESTION WORDING	USE	EXAMPLE
DIRECT	Guides interview in a specific direction; gets a short specific answer; can block witness responses.	"Did you see who started the fight?" "When did this policy go into effect?"
INDIRECT	When information is embarrassing, threatening; can be hypothetical, e.g., "What if..."	"Did you ever consider reporting his sexual advances to management?" "What would have happened if you had reported him?"

QUESTION WORDING	USE	EXAMPLE
LEADING	A type of direct question; phrased to suggest the right answer; may bias witness' response; may affect accuracy of witness' response.	"Don't you think that's a good settlement offer?" "You're going to withdraw this charge, aren't you?"
DOUBLE-BARRELED	Avoid; introduces more than one idea in the same question.	"What do you think of this charge and what are you going to do about it?"
NEGATIVE/SHARP	Avoid; leads to defensive and endless qualifying.	"Why would anyone do a thing like that?"

QUESTIONING TECHNIQUES		
PREFACE: A STATEMENT WHICH INTRODUCES A QUESTION; PROVIDES A FRAME WHICH ALLOWS WITNESS TO INTERPRET QUESTION CORRECTLY.		
QUESTION PREFACE	USE	EXAMPLE
FACTUAL	Gives witness facts/data to stimulate memory; can prevent response distortion.	"A copy of the charge was mailed to you on 1/1/86. When did you personally receive a copy?"
MOTIVATIONAL	Arouses witness interest; witness can feel obliged to answer; reduces threat of question; include witness name or "you" in preface to increase rapport/cooperation.	"I know you feel what happened to you was discriminatory..."
QUESTION SEQUENCE: REFERS TO THE ORDERING OF QUESTIONS IN EACH TOPIC.		

QUESTION PREFACE	USE	EXAMPLE
FUNNEL	General to narrow; open to closed; witness needs to vent feelings; gives witness greater freedom.	"Tell me about..." "What happened when you...?" "Were there any witnesses?"
PYRAMID	Specific to general; closed to open; can motivate witness; short questions easy to answer.	"Have you seen the charge filed by Mr. Z?" "Did you follow the normal discipline policy with Mr. Z?" "Explain the events leading to his discharge."
TUNNEL	A series of all one kind of question e.g., all closed, all open; better to vary question types; may be used to press for facts.	

QUESTIONING TECHNIQUES		
PROBES: A FOLLOW-UP QUESTION REQUESTING MORE INFORMATION.		
QUESTION PROBE	USE	EXAMPLE
AMPLIFICATION: EXPANDS RANGE AND DEPTH OF ANSWER; REVEALS CIRCUMSTANCES, REASONS, ATTITUDES.		
Direct	Come right out and ask for more information.	"What happened after that?"
Silence	Usually not more than 10 seconds; (I don't believe you, I approve, please continue, I agree, I don't understand, I'm interested) and many more meanings.	
Minimum Encouragement	Just a few words to keep witness talking.	"I see." "Yes, go on."
Restatement	Repeat witness' statement, but not parroting.	"You called in?"
Reflection	Reveals the feelings behind.	
CLARIFICATION: ENSURES THAT INVESTIGATOR UNDERSTANDS WHAT WITNESS SAID; ELIMINATES CONFUSION, AMBIGUITY; BREEDS CONFIDENCE.		
Direct	Ask directly for clarification.	"What do you mean by poor attitude?"
Paraphrase	Repeat Witness' statement in other words; better than restatement. An-expanded paraphrase.	"You only heard about the fight and did not actually witness it?" "Let's see if I understand what you are saying..."

QUESTION PROBE	USE	EXAMPLE

CONFRONTATION	Challenges Witness' words or actions; could make Witness hostile, avoid arguing or direct accusations	"Could you be mistaken?" "Didn't you just say that...?"
WHY	Gets data on reasons behind a decision; challenges validity or authority of a response; gets the rationale; helps Witness reason through a problem; use with caution; Witness may become defensive, emotional	"Why did you do that?" "Why did he react that way?" "Why didn't you call in?"

QUESTIONING TECHNIQUES		
QUESTION TYPE	USE	EXAMPLE
OPEN	One of the best ways to start (unless you need to get to the heart of the matter immediately. Gets the witness involved; gives the witness control; gives the witness recognition.	"Tell me what happened." "Could you describe the events..."
CLOSED	Follow-up after open question; to get specific, objective information; limits answers. Too many suggests badgering; may be threatening.	"Were you late for work?" "Did you call in?" "Who did you speak to?"

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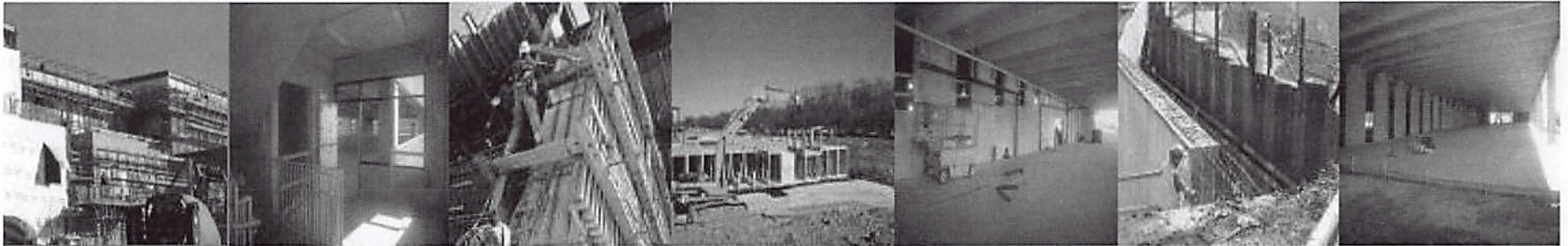
Definitions for: Cross-Cultural Communications:

Multi-cultural Diversity:

(Source: <http://www.communityeducation.org/victory/docs/training%20docs/Multicultural%20Diversity%20AISD.doc>)

Introduction

- Our world has become a ***“rainbow coalition”*** of people from many different cultures, socioeconomic backgrounds, and races. The people called “minorities” in this country are already a numerical majority across the world. The term ***“melting pot”*** that has been used to describe the assimilation of other cultures into American society is no longer appropriate. A ***newer descriptive might be “stew pot”***, in which all cultures and races retain their individuality but at the same time contribute to the overall mixture.
- During the **1980’s**, immigrants accounted for **1/3 of the total U.S. population growth**. In **1990**, approximately one in four schoolchildren was a minority student. According to the 2000 world population profile from the United States Bureau of Census, China and India account for almost two of every five people on earth. The more developed countries make up only 20% of the world’s population, and the population of the United States makes up less than 5% of our global village.



(Cross-Cultural Communications, continued:)

Multi-cultural Diversity:

(Source: <http://www.communityeducation.org/victory/docs/training%20docs/Multicultural%20Diversity%20AISD.doc>)

Introduction

- **By 2020** it is predicted that one in two schoolchildren will be a minority student. During the **next twenty years the U.S. population is predicted to grow by 42 million**. It is has also been predicted that **Hispanics** will account for **47%** of the growth, **Blacks 22%**, **Asians 18%**, and **Whites 13%**. By **2060**, the “average” United States resident will list his or her ancestry as African, Asian, Hispanic, or Arabic—not white European.
- These and other similar statistics indicate that cultures from these shifting population bases will have a tremendous impact on all facets of society—economic, political, religious, medical, educational, historical, and social. We have an opportunity to benefit from this change instead of merely reacting to it. At one time, only sociologists and futurists talked about the meeting of cultures. *Now all of us can enter this conversation. **We can value cultural diversity and learn how to thrive with it.***



(Cross-Cultural Communications, Continued):

Tutorial Components of a Multicultural Framework

1. Avoid “Us” and “Them” Thinking. Every group by definition is an “us”, and everyone not in the group belongs to “them”. Remember different people experience the world in many different ways. Recognize that the experiences of those traditionally not in the majority culture are more likely to include discrimination and exclusiveness. By being sensitive to this as a tutor, you can better enter into and develop productive working relationships with tutees.
2. Understand Institutional Prejudice. Many students have not been served well by their schools and, as a result, they may approach you with some degree of skepticism. In a society in which we espouse values of inclusion of all, opportunity for all, and fair treatment to all, those who seem “different” are often systematically excluded, denied opportunities, and treated unfairly. The reverse may also be true. If you survived inequities you may be more cynical or skeptical about school than some of your tutees. Either way, it is important to understand we all have different attitudes toward school, depending in large part on our experiences. If you are fair, communicate clearly, and are open to people different than you, then your relationships with each tutee can be mutually positive and productive.
3. Generalize Cautiously. You may be a minority tutor who experienced little discrimination in schools. Conversely, you may work with a white student who did experience some kind of discrimination in schools. You can’t assume that every white person had every advantage in school and that every African American or Hispanic student had every disadvantage. Generalizations about a group don’t necessarily apply to a given individual in that group. As a tutor, focus on the individuals you work with, utilizing what you know about their backgrounds as possible influences. Be aware of stereotypes in your own thinking and avoid letting them creep in our tutoring.



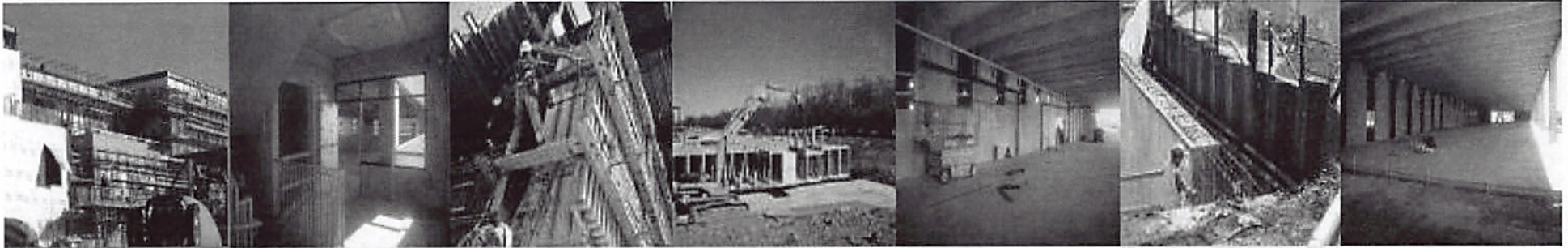
(Cross-Cultural Communications, Continued):

Definitions—What is culture?

- **Culture** refers to the sum total of acquired values, beliefs, customs, and traditions experienced by a group as familiar and normal. It includes language, religion, customs, and a history of the people. Culture has also been defined as the acquired knowledge that people use to interpret experience and to generate social behavior. Or stated another way, culture is simply one society's solutions to perennial human problems, such as how to worship, celebrate, resolve conflict, work, think, live, learn, and love.

Cultures can be distinguished on the basis of race: Asian, Hispanic, Black, Native American. Cultures can be distinguished by

- Nationality: Cambodians, Nicaraguans, Ukrainians, Lebanese, Germans, Irish.
- Socio-economic status: impoverished homeless, privileged wealthy living on huge estates, middle-class farmer on a family farm.
- Language: Cockney, Telugu, Hindi, Bostonian, Texan, Spanish, Mexican.



(Cross-Cultural Communications, Continued):

Definitions—What is culture, continued?

- *Certain distinctions should be made at this time regarding culture, race, ethnicity, and minority. While culture refers to a set of learned behaviors which can be modified (or even rejected) over time, the concept of race is a social construction used to group humans on the basis of observable biological and physical traits such as size, skin color, hair texture, or facial features. Current scientific classifications recognize five racial categories: Mongoloid (Asian), Negroid (South American and African), Caucasoid (North American, European, Australian), Malayan (Hispanic), and Native American.*
- *An **ethnic group** is a community of people within a larger society that is socially distinguished or set apart, by others and/or by itself, primarily on the basis of racial and/or cultural characteristics, such as religion, language, and tradition. An ethnic group may be distinguished by “race, religion, or national origin”. The central factor is the notion of being set apart from the larger society; the distinctiveness may be based on either physical or cultural attributes, or both. An ethnic group may also be an ethnic minority, but not always. Examples of ethnic groups include: White Americans, African Americans, American Indians, Eskimos, Asians (Indians, Russians, Chinese, Japanese, etc.), Pacific Islanders (Hawaiians, Samoans, Guamanians, etc.), Hispanics (Mexicans, Puerto Ricans, Cubans, etc.), Jews, and Muslims. Religious denominations can also be considered ethnic groups, such as Protestants (Methodists, Baptists, Church of Christ, etc.), Fundamentalists (Assembly of God), Evangelical, Catholic, Orthodox (Greek, Russian, Jewish), Mormons, or even nondenominational churches.*



(Cross-Cultural Communications, Continued) :

The term **minority** refers to a segment of society that is not necessarily less in number, but in some way considers itself to be inferior or have lesser status than the so-called majority. In fact, a numerical minority may control a numerical majority, as in the example of plantation owners who oversaw slave laborers. From a sociological perspective, whether or not an ethnic group is also a minority group depends on the degree to which it holds a subordinate status in the society. Most social scientists view ethnic groups as minorities when they:

- Suffer discrimination and subordination within a society;
- Are set apart in terms of physical or cultural traits disapproved of by the dominant group;
- Share a sense of collective identity and common burdens;
- Inherit their group membership at birth; and
- Marry primarily within their groups.
- The degree to which an ethnic group retains minority group status depends on how it is received by and/or receives the predominant society. It is important to realize, however, that individuals in the same ethnic group differ in their experiences associated with minority status, including prejudice, discrimination, and feelings of powerlessness.

Conclusion: The greater our knowledge of other cultures, the easier it is for us to be tolerant. The more we explore our differences, the more we can discover our similarities.



Definitions for: Principles of Stereotyping & Bias :

STEROTYPES & BIASES:

Wikipedia:

STEROTYPES:

A **stereotype** is a type of logical oversimplification in which all the members of a class or set are considered to be definable by an easily distinguishable set of characteristics. The term is often used with **a negative connotation, as stereotypes can be used to deny individuals respect or legitimacy based on their membership** in a particular group. In America, the term has long been associated with the Civil Rights movement and is imbued with a semblance of racial context.

- Stereotypes often form the basis of prejudice and are usually employed to explain real or imaginary differences due to race, gender, religion, age, ethnicity, socio-economic class, disability, and occupation, among the limitless groups one may be identified with. A stereotype can be a conventional and oversimplified conception, opinion, or image based on the belief that there are attitudes, appearances, or behaviors shared by all members of a group. Stereotypes are forms of social consensus rather than individual judgments. Stereotypes are sometimes formed by a previous illusory correlation, a false association between two variables that are loosely correlated if correlated at all.



(Principles of Stereotyping & Bias, continued:)

STEROTYPES & BIASES:

Wikipedia:

STEROTYPES, continued:

- The term "stereotype" derives from Greek στερεός (*stereos*) "solid, firm"[1] + τύπος (*tupos*) "blow, impression, engraved mark"[2] hence "solid impression". The term, in its modern psychology sense, was first used by Walter Lippmann in his 1922 work Public Opinion[3] although in the printing sense it was first coined 1798.
- Sociologists believe that mental categorizing (or labelling) is necessary and inescapable. **One perspective** on how to understand stereotyping process is through the categories or ingroups and outgroups. Ingroups are viewed as normal and superior, and are generally the group that one associates with or aspires to join. An outgroup is simply all the other groups. They are seen as lesser or inferior than the ingroups.



(Principles of Stereotyping & Bias, continued):

- **A second perspective** is that of automatic and implicit or subconscious and conscious. Automatic or subconscious stereotyping is that which everyone does without noticing. Automatic stereotyping is quickly preceded by an implicit or conscious check which permits time for any needed corrections. Automatic stereotyping is affected by implicit stereotyping because frequent conscious thoughts will quickly develop into subconscious stereotypes.
- **A third method** to categorizing stereotypes is general types and sub-types. Stereotypes consist of hierarchical systems consisting of broad and specific groups being the general types and sub-types respectively. A general type could be defined as a broad stereotype typically known among many people and usually widely accepted, whereas the sub-group would be one of the several groups making up the general group. These would be more specific, and opinions of these groups would vary according to differing perspectives.
- One reason people stereotype is that it is too difficult to take in all of the complexities of other people. Even though stereotyping is inaccurate, it is efficient. Categorization is an essential human capability because it enables us to simplify, predict, and organize our world. Once one has sorted and organized everyone into tidy categories, there is every incentive to avoid processing new or unexpected information about each individual. Assigning general group characteristics to members of that group saves time and satisfies the need to predict the social world.



(Principles of Stereotyping & Bias, Continued):

- People also tend to stereotype because of the need to feel good about oneself. Stereotypes protect one from anxiety and enhance self-esteem. By designating one's own group as the standard or normal group and assigning others to groups considered inferior or abnormal, it provides one with a sense of worth.
- **Childhood influences are some of the most complex and influential factors in developing stereotypes.** Though they can be absorbed at any age, stereotypes are usually acquired in early childhood under the influence of parents, teachers, peers, and the media. ***Once a stereotype is learned, it often becomes self-perpetuating.***
- Many scientific theories have derived from the sociological studies of stereotyping and prejudicial thinking. During the early studies it was believed or suggested that stereotypes were only used by rigid, repressed, and authoritarian people. Sociologists concluded that this was a result of conflict, poor parenting, and inadequate mental and emotional development. They now know differently. Scientist and theorists have concluded that stereotypes do not only exist, but are actually a never ending chain of thoughts.



(Principles of Stereotyping & Bias, Continued):

BIASES: **Bias** is a term used to describe a tendency or preference towards a particular perspective, ideology or result, especially when the tendency interferes with the ability to be impartial, unprejudiced, or objective.^[1] In other words, **bias is generally seen as 'one-sided'**. The term **biased** is used to describe an action, judgment, or other outcome influenced by a prejudged perspective. It is also used to refer to a person or body of people whose actions or judgments exhibit bias. The term "biased" is often used as a pejorative, because bias is inherently unjust, lacking merit.

- A **pejorative** (also **term of abuse** or **term of disparagement**), as a noun, means a word or phrase that implies disapproval or contempt and is meant to be insulting, impolite, or unkind: "A belittling or disparaging word or expression." When used as an adjective, *pejorative* is synonymous with *derogatory*, *derisive*, *dyslogistic*, and *contemptuous*. Standards of politeness limit the use of pejoratives.



(Principles of Stereotyping & Bias, Continued):

Automaticity

- - Individual differences
- - Inhibition
- - Ambiguous information
- - Behavioral predictions
- - Mental capacity
- - Motivation



Definitions for: Behavior Analysis (Limitations of Personality Identification):

Behavior Analysis:

Wikipedia:

Applied behavior analysis (ABA) is the science of applying experimentally derived principles of behavior to improve socially significant behavior. ABA takes what we know about behavior and uses it to bring about positive change (Applied). Behaviors are defined in observable and measurable terms in order to assess change over time (Behavior). The behavior is analyzed within the environment to determine what factors are influencing the behavior (Analysis).

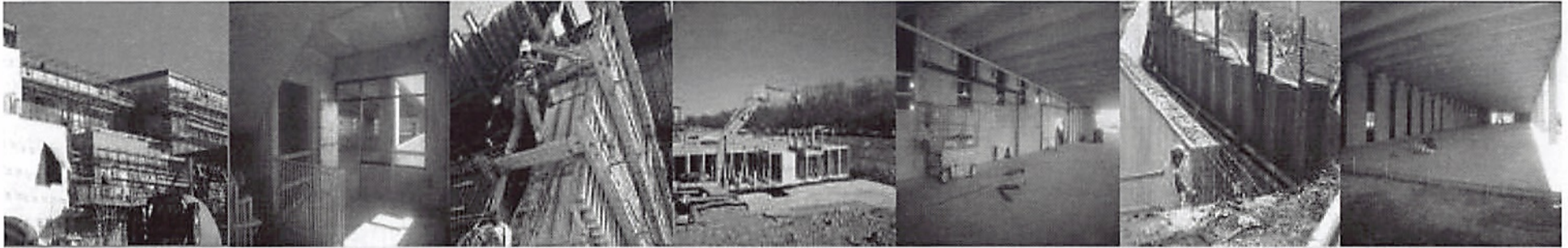
- Applied behavior analysis contributes to a full range of areas including: AIDS prevention,[1] conservation of natural resources,[2] education,[3] gerontology,[4] health and exercise,[5] industrial safety,[6] language acquisition,[7] littering,[8] medical procedures,[9] parenting,[10] seatbelt use,[11] severe mental disorders,[12] sports,[13] and zoo management and care of animals.[14]
- The **experimental analysis of behavior** is the name given to school of psychology founded by B. F. Skinner, and based on his philosophy of radical behaviorism. A central principle was the inductive, data-driven[1] examination of functional relations, as opposed to the kinds of hypothetico-deductive learning theory[2] that had grown up in the comparative psychology of the 1920-1950 period. Skinner's approach was characterized by empirical observation of measurable behavior which could be predicted and controlled. It owed its early success to the effectiveness of Skinner's procedures of operant conditioning, both in the laboratory and in behavior therapy — what is now called applied behavior analysis.



(Behavior Analysis, Continued):

What Is Behavior Analysis? *(By Howard Sloane)*

- Behavior analysis **is a science concerned with the behavior of people, what people do and say**, and the behavior of animals. It attempts to understand, explain, describe and predict behavior. Behavior analysis differs from most psychological attempts to understand behavior. Behavior analysis does not posit such "mental" causes for behavior.
- Behavior itself is seen as the subject matter of interest. Variations in behavior, changes in the frequency or form of what we do or what we say, are understood in terms of relations with real-world events. ***It is analyzed in terms of interactions between behavior itself and the environment.***



(Behavior Analysis, Continued):

What Is Behavior Analysis, *continued*? *(By Howard Sloane)*

- Selectivism, not "purposism," is the guiding concept. Behavior does not occur "in order to" produce some result, even though we inaccurately say "the child cries to get attention." Purposive statements suggest that present behavior (e.g., crying) is caused by something which has not yet occurred (attention). **It is more accurate to say that the environment provides consequences for behavior, which make that behavior more likely to occur in the future under similar circumstances.** Thus, the child cries (now) because in the past crying has resulted in attention, and the present is influenced by the past, not the future. Operants and reflexes are the two major classes of behavior.
- **Operants** (traditionally called "**voluntary behaviors**") include most visible everyday things we do or say. Events which follow operants (consequences) significantly influence the likelihood of the behavior occurring again under similar circumstances (e.g., ask politely, get seconds on pie). Reflexes, called respondents, are mostly automatic responses to some stimulus which precedes them (e.g., loud noise, heart rate changes), and are frequently "physiological." They are not influenced very much by consequences.



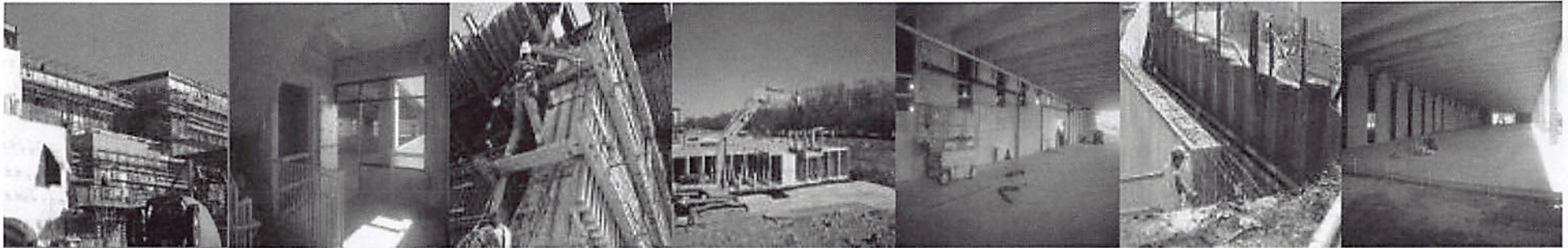
(Behavior Analysis, Continued):

- Some people incorrectly believe that behavior analysis considers all behavior to be respondent in nature, and therefore "automatic" and not influenced by what happens. Even some texts suggest this. This is an unfortunate misunderstanding. ***In fact, however, behavior analysis suggests that most behavior of interest in everyday life, in family or personal relationships, in school or on the job, is operant in nature, not respondent.*** It therefore changes as the environment changes and provides different consequences.
- **Contingencies and functional relationships describe the connections between behavior and its causes in the environment.** "When he told jokes people laughed" asserts that the laughter of others was contingent on his telling jokes. If we found that this consequence strengthened the probability that he would tell jokes, we would have discovered a functional relationship; his telling jokes were a function of people laughing. From this observed functional relationship and many, many others we might develop the abstract concept of reinforcement, an abstract functional relationship.
- Explanations which are not functional relationships do not really "explain." Some people might explain an individual's helpless behavior as due to a "dependent personality." This might refer to chronic, frequent dependent behavior, including test responses such as "I let other people make decisions." Although this label or description is often useful to know, it "explains" little. We cannot say that a person acts helpless or dependent because he or she has a dependent personality (has acted dependently a lot in the past) and claim we have illuminated the causes of the behavior.



(Behavior Analysis, Continued):

- Genetics, brain chemistry, physiology, and related factors **play a role in understanding behavior.** Behavior analysis assumes that certain functional relationships between behavior and the environment are true for individuals or species because of genetic endowment. Behavioral laws do not deny genetics, they exist because of genetics. Those individuals and species who inherited structures which allowed them to respond in certain ways to their environment survived those who inherited structures which lead to different learning and behavior did not.
- **Behavior analysis sees things like physiology and brain chemistry as playing essential roles in understanding behavior.** Contingencies which occurred in the past have influenced behavior today. Behavior analysis does not assume that some sort of time machine exists, that what happened eight years ago travels through time to influence how you will respond to a situation today. Behavior analysis speculates that these past events changed some structure, biological, neurological, chemical, or electrical, and these changes persist today and influence behavior today. However, we currently know little about what precisely goes on at these levels that mediate behavior. Today, scientists know a lot about interpreting chemistry in terms of quantum theory; we are not at that stage in behavioral science, although there is a start. But today we do not know enough to explain behavior by reference to chemical or electrical events.
- Finally, reality is not up for a popular vote. Researchers who study behavior did not "create" behavioral laws. No one believes that if it were not for Newton there would be no gravity. Yet many act as if behavioral scientists are responsible for the way the world is.



(Behavior Analysis, Continued):

As An Applied Science

- ***Applied behavior analysis attempts to improve individual and social conditions.*** In education, **direct instruction, precision teaching, personalized instruction, and other behavior analysis approaches have great success**, whether in regular education, special education, or adult and higher education. In spite of much that has been written, superior educational programs that consistently deliver quality results across all ranges of students already exist. Research has shown this time after time. However, these programs have not been widely adopted yet.
- **In industry**, the form of behavior analysis called performance management produces results far superior to traditional strategies. Many Fortune 500 companies now train managers in these approaches. Most significant current work in international public health is based on behavior analysis. Many behavioral programs related to environmental concerns, such as littering, energy and water conservation, and recycling, have been developed. In clinical areas related to personal problems, parenting, child-rearing, corrections, drug and alcohol treatment, and in health-related areas, such as weight control and smoking cessation, successful programs grounded in behavior analysis are documented.
- Many new areas are under development. A start has been made treating economics as a behavioral problem. Analyses have been completed and new ones are underway related to creativity. Traditional areas, such as thinking and cognition, will be completely reformulated on the basis of research and concepts already developed. The historic topics labeled motivation and emotion are understood from a new perspective. ***A start is being made to attempt to understand areas like ethnic conflict and group aggression.***



(Behavior Analysis, Continued):

Attribution theory

From Wikipedia,

Attribution theory is a social psychology theory developed by Fritz Heider, Harold Kelley, Edward E. Jones, and Lee Ross.

- The theory is concerned with the ways in which people explain (or attribute) the behavior of others or themselves (self-attribution) with something else. It explores how individuals "attribute" causes to events and how this cognitive perception effects their usefulness in an organization.
- **Dispositional attribution** is the explanation of individual behavior as a result caused by internal characteristics that reside within the individual, as opposed to outside (situational) influences that stem from the environment or culture in which that individual is found.
- For example, dispositional optimism is a tendency that applies generally across situations, but situational optimism is having hope and expecting a good outcome in a specific situation.
- **Group-serving bias** is identical to self-serving bias except that it takes place between groups rather than individuals, under which group members make dispositional attributions for their group's successes and situational attributions for group failures, and vice versa for outsider groups.



(Behavior Analysis, Continued):

Attribution theory, continued

From Wikipedia,

- For instance, the fundamental attribution error is a self-serving bias, while the group attribution error is a group-serving bias. Perhaps the most basic form of group-serving bias is ingroup bias.

Internal versus external

- The theory divides the way people attribute causes into two types.
- "External" or "situational" attribution assigns causality to an **outside factor**, such as the weather.
- "Internal" or "dispositional" attribution assigns causality to factors within the **person**, such as their own level of intelligence or other variables that make the individual responsible for the event.
- The covariation model developed by Harold Kelley examines how people decide whether an internal or an external attribution will be made.

U.S. Department of Labor
Occupational Safety and Health Administration



Statement

Page _____ of _____ Pages

I, _____, reside at

(Number)

(Street)

in the City

of _____, County of _____.

State of _____, ZIP Code _____.

My telephone is Area Code (____) _____.

I have been employed by _____.

located at _____
(Number) (Street) (City) (State) (ZIP)

office telephone, Area Code (____) _____ . My job classification

is (was) _____.

I understand that this statement will be held in confidence until such time as I may be called to testify in a court proceeding, at which time it may be produced upon demand of opposing counsel. Additionally, this statement may be made available to other agencies if it will assist them in the performance of their statutory functions. Upon the closing of this case, this statement may be subject to disclosure only in accordance with applicable statute(s) and agency policy.

I Hereby depose and say: _____

Statement (Continuation)

Statement of _____

Page _____ of _____ Pages

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Statement (Affirmation)

Statement of _____

Page _____ of _____ Pages

I have read and had the opportunity to correct this statement consisting of _____ Handwritten pages, and these facts are true and correct to the best of my knowledge and belief. Public Law 91-596, Paragraph 17(g) makes it a criminal offense to knowingly make a false statement or misrepresentation in this statement.

Witness:

Signature

Signature

Date _____

Address

City, States, ZIP Code

Phone Number

OSHA Whistleblower Policy (Section 11(c) of the OSH Act)

What is Whistleblower Discrimination?

Whistleblower

- An employee who makes a complaint about an unsafe condition or a violation of a law or regulation.
- The complaint does not have to be made to an enforcement agency.
- The complaint may be made to a supervisor, union representative, or anyone in a position to address the employee's concerns..

Discrimination

- The term "discrimination" is a misnomer. A better word is "retaliation".
- Discrimination means treating someone differently than others are treated, on a basis **other than individual merit**. It implies ongoing behavior.

Retaliation

- Repaying in kind; getting revenge.
- May manifest as a discharge or firing, job transfer, poor performance evaluation, etc.
- An adverse action taken by an employer because an employee engaged in a protected activity.

Protected Activity

A protected activity varies by statute, but involves this type of activity:

- Complaints to government agencies such as OSHA, EPA, FAA, DOT, NRC, SEC, health departments, etc, including the state equivalents.
- Complaints to employer, co-workers, union.
- Grievances filed over safety and health issues.
- Work refusals.
- Commercial vehicle drivers accurately reporting their hours of duty.

Adverse Action. Examples: Black listing, constructive discharge, discharge, demotion, denying benefits, denying overtime, failure to hire, failure to promote, failure to recall, harassment, reducing pay, reprimand, transfer to a different job.

What Are the Elements of a Whistleblower Complaint?

- Complainant engaged in protected activity.
- Employer knew or could have known of the protected activity.
- Employer took adverse action because of the protected activity.
- **NOTE:** The complaint must be filed within statutory deadlines.

Who May File a Complaint?

- Applicant for employment
- Employee
- Former employee
- Authorized representative of an applicant, employee or former employee. This includes an attorney, union representative, family member, etc.

Why Do We Have Whistleblower Protections?

- Allow employees to make complaints without fear of reprisal.
- Fosters a safe workplace.
- Promotes employee participation in compliance with applicable laws.
- Encourages employees to be the “eyes and ears” of the government without fear of reprisal.
- Encourages employers to comply with laws, regulations and standards.

What Whistleblower Statutes Does OSHA Enforce?

Section 11(c) of the OSH Act says, “Provides protection against retaliation based on employee’s exercising a variety of rights guaranteed under the OSHA Act, such as filing a safety and health complaint with OSHA, participating in an inspection, etc.”

OSHA enforces more than 16 statutes, including:

- Asbestos Hazard Emergency Response Act (AHERA)
- Clean Air Act (CAA)
- Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
- Energy Reorganization Act (ERA)
- Federal Water Pollution Control Act (FWPCA)
- International Safety Container Act (ISCA)
- Pipeline Safety Improvement Act (PSIA)
- Safe Drinking Water Act (SDWA)
- Sarbanes-Oxley Act (SOX)
- Solid Waste Disposal Act (SWDA)
- Surface Transportation Assistance Act (STAA)
- Toxic Substances Control Act (TSCA)
- Wendell H. Ford Aviation Investment and Reform Act (AIR21)

Selected Portions of the Field Operations Manual (FOM)

C. Record All Facts Pertinent to a Violation.

1. Safety and health violations shall be brought to the attention of employer and employee representatives at the time they are documented.
2. CSHOs shall record, at a minimum, the identity of the exposed employee(s), the hazard to which the employee(s) was exposed, the employee's proximity to the hazard, the employer's knowledge of the condition, and the manner in which important measurements were obtained and how long the condition has existed.
3. CSHOs will document interview statements in a thorough and accurate manner; including names, dates, times, locations, type of materials, positions of pertinent articles, witnesses, etc.

NOTE: If employee exposure to hazards is not observed, the CSHO shall document facts on which the determination is made that an employee has been or could be exposed. See Chapter 4.

Selected Portions of the Field Operations Manual (FOM)

Fatality/Catastrophe Inspections.

C. Investigation Procedures.

1. All fatalities and catastrophes will be thoroughly investigated in an attempt to determine the cause of the event, whether a violation of OSHA safety and health standards, regulations, or the general duty clause occurred, and any effect the violation had on the accident. Each Regional Administrator will establish a procedure to ensure that each fatality or catastrophe is thoroughly investigated and processed in accordance with established policy.
2. The investigation should be initiated as soon as possible after receiving an initial report of the incident, ideally within one working day, by an appropriately trained and experienced compliance officer assigned by the Area Director or designee. The Area Director or designee determines the scope of the fatality/ catastrophe investigation. All investigations must be completed in an expeditious manner.
3. Inspections following fatalities or catastrophes should include videotaping as a method of documentation and gathering evidence when appropriate. The use of photography is also encouraged in documenting and evidence gathering.
4. As in all inspections, under no circumstances should OSHA personnel conducting fatality/catastrophe investigations be unprotected against a hazard encountered during the course of an investigation. OSHA personnel must use appropriate personal protective equipment and take all necessary precautions to avoid and/or prevent occupational exposure to potential hazards that may be encountered.

D. Interview Procedures.

1. Identify and Interview Persons.

- a. Identify and interview all persons with firsthand knowledge of the incident, including first responders, police officers, medical responders, and management, as early as possible in the investigation. The sooner a witness is interviewed, the more accurate and candid the witness statement will be.

- b. If an employee representative is actively involved in the inspection, he or she can serve as a valuable resource by assisting in identifying employees who might have information relevant to the investigation.
- c. Conduct employee interviews privately, outside the presence of the employer. Employees are not required to inform their employer that they provided a statement to OSHA.
- d. When interviewing:
 - Properly document the contact information of all parties because follow-up interviews with a witness are sometimes necessary.
 - When appropriate, reduce interviews to writing and have the witness sign the document. Transcribe video- and audio-taped interviews and have the witness sign the transcription.
 - Read the statement to the witness and attempt to obtain agreement. Note any witnesses' refusal to sign or initial his/her statement.
 - Ask the interviewee to initial any changes or corrections made to his/her statement.
 - Advise interviewee of OSHA whistleblower protections.
- e. See Chapter 3, Inspection Procedures, for additional information on conducting interviews.

2. Informer's Privilege.

- a. The informer's privilege allows the government to withhold the **identity** of individuals who provide information about the violation of laws, including OSHA rules and regulations. The identity of witnesses will remain confidential to the extent possible. However, inform each witness that disclosure of his/her identity may be necessary in connection with enforcement or court actions.
- b. The informer's privilege also protects the contents of statements to the extent that disclosure would reveal the witness' identity. When the contents of a statement will not disclose the identity of the informant (i.e., statements that do not reveal the witness' job title, work area, job duties, or other information

that would tend to reveal the individual's identity), the privilege does not apply and such statements may be released.

c. Inform each witness that his/her interview statements may be released if he or she authorizes such a release or if he or she voluntarily discloses the statement to others, resulting in a waiver of the privilege.

d. Inform witnesses in a tactful and nonthreatening manner that making a false statement to a CSHO during the course of an investigation could be a criminal offense. Making a false statement, upon conviction, is punishable by up to \$10,000 or six months in jail, or both.

E. Investigation Documentation. Document all fatality and catastrophe investigations thoroughly.

1. Personal Data – Victim.

Potential items to be documented include: Name; Address; Email address; Telephone; Age; Sex; Nationality; Job Title; Date of Employment; Time in Position; Job being done at the time of the incident; Training for job being performed at time of the incident; Employee deceased/injured; Nature of injury – fracture, amputation, etc.; and Prognosis of injured employee.

2. Incident Data.

Potential items to be documented include: How and why did the incident occur; the physical layout of the worksite; sketches/drawings; measurements; video/audio/photos to identify sources, and whether the accident was work-related.

3. Equipment or Process Involved.

Potential items to be documented include: Equipment type; Manufacturer; Model; Manufacturer's instructions; Kind of process; Condition; Misuse; Maintenance program; Equipment inspection (logs, reports); Warning devices (detectors); Tasks performed; How often equipment is used; Energy sources and disconnecting means identified; and Supervision or instruction provided to employees involved in the accident.

4. Witness Statements.

Potential witnesses include: the Public; Fellow employees; Management; Emergency responders (e.g., police department, fire department); and Medical personnel (e.g., medical examiner).

5. Safety and Health Program.

Potential questions include: Does the employer have a safety and/or health program? Does the program address the type of hazard that resulted in the fatality/catastrophe? How are the elements of the program specifically implemented at the worksite?

6. Multi-Employer Worksite

Describe the contractual and in practice relationships of the employer with the other employers involved with the work being performed at the worksite.

7. Records Request.

Potential records include: Disciplinary Records; Training Records; and Next of Kin information.

NOTE: Next of kin information should be gathered as soon as possible to ensure that condolence letters can be sent in a timely manner.

F. Potential Criminal Penalties in Fatality and Catastrophe Cases.

1. Criminal Penalties.

- a. Section 17(e) of the Act provides criminal penalties for an employer who is convicted of having willfully violated an OSHA standard, rule or order when the violation results in the death of an employee. However, Section 17(e) does not apply to violations of the general duty clause. When there are violations of an OSHA standard, rule or order, or a violation of the general duty clause, criminal provisions relating to false statements and obstruction of justice may also be relevant.
- b. The circumstances surrounding all occupationally-related fatalities will be evaluated to determine whether the fatality was caused by a willful violation of a standard, thus creating the basis for a possible criminal referral. The evidence obtained during a fatality investigation is of paramount importance and must be carefully gathered and considered.

c. Early in the investigation, the Area Director or designee, in consultation with the investigator, should make an initial determination as to whether there is potential for a criminal violation. The decision will be based on consideration of the following:

- A fatality has occurred.
- There is evidence that an OSHA standard has been violated and that the violation contributed to the death.
- There is reason to believe that the employer was aware of the requirements of the standard and knew it was in violation of the standard, or that the employer was plainly indifferent to employee safety.
- If the Regional Administrator agrees with the Area Director or designee's assessment of the case, the Regional Administrator will notify the RSOL At the discretion of the Regional Administrator and the Area Director or designee, and dependent upon Regional procedures in place, a Regional team or trained criminal investigator may assist in or perform portions of an investigation.
- When there is a potential criminal referral in a case, it is essential that the Regional Administrator and/or the Area Director involve the RSOL's Office in the early stages of the investigation during the evidence gathering process.



Self-Assessment for Course #1310 Investigative Interviewing Techniques

Please complete this self-assessment of your knowledge at the beginning of this course. You will be asked to complete this same assessment upon completion of this course. These assessments will help us meet the learning needs of this class and improve the quality of future classes.

Please circle the correct response.
Rate your knowledge with 1 meaning little knowledge and 5 extensive knowledge.

	Little Knowledge			Extensive Knowledge	
1. Understanding of an open-ended question	1	2	3	4	5
2. Understanding when to use a direct or indirect question	1	2	3	4	5
3. Applying the use of empathy	1	2	3	4	5
4. Understanding the use of Active Listening Skills (i.e., reflection, mirroring, paraphrasing, summarizing)	1	2	3	4	5
5. Ability to interpret body language to enhance your interview	1	2	3	4	5
6. Understanding of when to use paraphrasing	1	2	3	4	5
7. Ability to obtain interviewees confidence	1	2	3	4	5
8. Ability to clarify information with the interviewee	1	2	3	4	5
9. Ability to summarize the interviewees statement	1	2	3	4	5
10. Understanding of the importance of obtaining a signature on a statement	1	2	3	4	5
11. Ability to properly introduce yourself	1	2	3	4	5
12. Understanding of OSHA's policy on interviewing	1	2	3	4	5
13. Understanding of who can be in the presence of an interviewee	1	2	3	4	5
14. Rate your understanding of the entire interview process	1	2	3	4	5
15. Rate your ability to identify if someone is lying to you	1	2	3	4	5

Student ID _____

Date _____